

WILLIAM F. GOODLING CHILD NUTRITION
REAUTHORIZATION ACT OF 1998

OCTOBER 6, 1998.—Ordered to be printed

Mr. GOODLING, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany H.R. 3874]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3874), to amend the National School Lunch Act and the Child Nutrition Act of 1966 to provide children with increased access to food and nutrition assistance, to simplify program operations and improve program management, to extend certain authorities contained in those Acts through fiscal year 2003, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) *SHORT TITLE.*—This Act may be cited as the “William F. Goodling Child Nutrition Reauthorization Act of 1998”.

(b) *TABLE OF CONTENTS.*—The table of contents of this Act is as follows:

Sec. 1. *Short title; table of contents.*

TITLE I—SCHOOL LUNCH AND RELATED PROGRAMS

Sec. 101. *Provision of commodities.*

Sec. 102. *Nutritional and other program requirements.*

Sec. 103. *Special assistance.*

Sec. 104. *Miscellaneous provisions and definitions.*

Sec. 105. *Summer food service program for children.*

Sec. 106. *Commodity distribution program.*

Sec. 107. *Child and adult care food program.*

- Sec. 108. *Meal supplements for children in afterschool care.*
 Sec. 109. *Pilot projects.*
 Sec. 110. *Training, technical assistance, and food service management institute.*
 Sec. 111. *Compliance and accountability.*
 Sec. 112. *Information clearinghouse.*
 Sec. 113. *Accommodation of the special dietary needs of individuals with disabilities.*

TITLE II—SCHOOL BREAKFAST AND RELATED PROGRAMS

- Sec. 201. *School breakfast program authorization.*
 Sec. 202. *State administrative expenses.*
 Sec. 203. *Special supplemental nutrition program for women, infants, and children.*
 Sec. 204. *Nutrition education and training.*

TITLE III—COMMODITY DISTRIBUTION PROGRAMS

- Sec. 301. *Information from recipient agencies.*
 Sec. 302. *Food distribution.*

TITLE IV—EFFECTIVE DATE

- Sec. 401. *Effective date.*

TITLE I—SCHOOL LUNCH AND RELATED PROGRAMS

SEC. 101. PROVISION OF COMMODITIES.

(a) *IN GENERAL.*—Section 6 of the National School Lunch Act (42 U.S.C. 1755) is amended—

- (1) *by striking subsections (c) and (d); and*
- (2) *by redesignating subsections (e), (f), and (g) as subsections (c), (d), and (e), respectively.*

(b) *CONFORMING AMENDMENTS.*—The National School Lunch Act is amended by striking “section 6(e)” each place it appears in sections 14(f), 16(a), and 17(h)(1)(B) (42 U.S.C. 1762a(f), 1765(a), 1766(h)(1)(B)) and inserting “section 6(c)”.

SEC. 102. NUTRITIONAL AND OTHER PROGRAM REQUIREMENTS.

(a) *TECHNICAL AMENDMENTS.*—Section 9(f) of the National School Lunch Act (42 U.S.C. 1758(f)) is amended—

- (1) *in paragraph (2), by striking “subparagraph (A)” and inserting “paragraph (1)”;* and
- (2) *in paragraphs (3) and (4), by striking “this paragraph” each place it appears and inserting “this subsection”.*

(b) *WAIVER OF REQUIREMENT FOR WEIGHTED AVERAGES FOR NUTRIENT ANALYSIS.*—Section 9(f) of the National School Lunch Act (42 U.S.C. 1758(f)) is amended by adding at the end the following:

“(5) *WAIVER OF REQUIREMENT FOR WEIGHTED AVERAGES FOR NUTRIENT ANALYSIS.*—During the period ending on September 30, 2003, the Secretary shall not require the use of weighted averages for nutrient analysis of menu items and foods offered or served as part of a meal offered or served under the school lunch program under this Act or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).”.

(c) *REQUIREMENT FOR FOOD SAFETY INSPECTIONS.*—Section 9 of the National School Lunch Act (42 U.S.C. 1758) is amended by adding at the end the following:

“(h) *FOOD SAFETY INSPECTIONS.*—

“(1) *IN GENERAL.*—Except as provided in paragraph (2), a school participating in the school lunch program under this Act or the school breakfast program under section 4 of the Child

Nutrition Act of 1966 (42 U.S.C. 1773) shall, at least once during each school year, obtain a food safety inspection conducted by a State or local governmental agency responsible for food safety inspections.

“(2) EXCEPTION.—Paragraph (1) shall not apply to a school if a food safety inspection of the school is required by a State or local governmental agency responsible for food safety inspections.”.

(d) SINGLE PERMANENT AGREEMENT BETWEEN STATE AGENCY AND SCHOOL FOOD AUTHORITY; COMMON CLAIMS FORM.—Section 9 of the National School Lunch Act (42 U.S.C. 1758), as amended by subsection (c), is further amended by adding at the end the following:

“(i) SINGLE PERMANENT AGREEMENT BETWEEN STATE AGENCY AND SCHOOL FOOD AUTHORITY; COMMON CLAIMS FORM.—

“(1) IN GENERAL.—If a single State agency administers any combination of the school lunch program under this Act, the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), the summer food service program for children under section 13 of this Act, or the child and adult care food program under section 17 of this Act, the agency shall—

“(A) require each school food authority to submit to the State agency a single agreement with respect to the operation by the authority of the programs administered by the State agency; and

“(B) use a common claims form with respect to meals and supplements served under the programs administered by the State agency.

“(2) ADDITIONAL REQUIREMENT.—The agreement described in paragraph (1)(A) shall be a permanent agreement that may be amended as necessary.”.

SEC. 103. SPECIAL ASSISTANCE.

(a) SCHOOL ELIGIBILITY REQUIREMENTS FOR PAYMENTS.—Section 11(a)(1) of the National School Lunch Act (42 U.S.C. 1759a(a)(1)) is amended—

(1) in subparagraph (C)—

(A) in clause (i)(I), by striking “3 successive school years” each place it appears and inserting “4 successive school years”; and

(B) in clauses (ii) and (iii), by striking “3-school-year period” each place it appears and inserting “4-school-year period”;

(2) in subparagraph (D)—

(A) in clause (i)—

(i) by striking “3-school-year period” each place it appears and inserting “4-school-year period”; and

(ii) by striking “2 school years” and inserting “4 school years”;

(B) in clause (ii)—

(i) by striking the first sentence;

(ii) by striking “The school” and inserting “A school described in clause (i)”; and

- (iii) by striking “5-school-year period” each place it appears and inserting “4-school-year period”; and
 - (C) in clause (iii), by striking “5-school-year period” and inserting “4-school-year period”; and
 - (3) in subparagraph (E), by striking clause (iii).
- (b) *ADJUSTMENTS TO PAYMENT RATES.*—
 - (1) *IN GENERAL.*—Section 11(a)(3)(B) of the National School Lunch Act (42 U.S.C. 1759a(a)(3)(B)) is amended—
 - (A) by striking “(B) The annual” and inserting the following:
 - “(B) *COMPUTATION OF ADJUSTMENT.*—
 - “(i) *IN GENERAL.*—The annual”;
 - (B) by striking “Each annual” and inserting the following:
 - “(ii) *BASIS.*—Each annual”;
 - (C) by striking “The adjustments” and inserting the following:
 - “(iii) *ROUNDING.*—
 - “(I) *THROUGH JUNE 30, 1999.*—For the period ending June 30, 1999, the adjustments”; and
 - (D) by adding at the end the following:
 - “(II) *JULY 1, 1999, AND THEREAFTER.*—On July 1, 1999, and on each subsequent July 1, the national average payment rates for meals and supplements shall be adjusted to the nearest lower cent increment and shall be based on the unrounded amounts for the preceding 12-month period.”.
 - (2) *CONFORMING AMENDMENTS.*—Section 4(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)) is amended—
 - (A) in the second sentence of paragraph (1)(B), by striking “adjusted to the nearest one-fourth cent,”; and
 - (B) in paragraph (2)(B)(ii), by striking “, which shall be adjusted” and all that follows and inserting “(as adjusted pursuant to section 11(a)(3)(B) of the National School Lunch Act (42 U.S.C. 1759a(a)(3)(B)))”.
 - (c) *INFORMATION AND ASSISTANCE CONCERNING REIMBURSEMENT OPTIONS.*—
 - (1) *IN GENERAL.*—Section 11 of the National School Lunch Act (42 U.S.C. 1759a) is amended by adding at the end the following:
 - “(f) *INFORMATION AND ASSISTANCE CONCERNING REIMBURSEMENT OPTIONS.*—
 - “(1) *IN GENERAL.*—From funds made available under paragraph (3), the Secretary shall provide grants to not more than 10 State agencies in each of fiscal years 2000 and 2001 to enable the agencies, in accordance with criteria established by the Secretary, to—
 - “(A) identify separately in a list—
 - “(i) schools that are most likely to benefit from electing to receive special assistance under subparagraph (C) or (E) of subsection (a)(1); and

“(ii) schools that may benefit from electing to receive special assistance under subparagraph (C) or (E) of subsection (a)(1);

“(B) make the list of schools identified under this subsection available to each school district within the State and to the public;

“(C) provide technical assistance to schools, or school districts containing the schools, to enable the schools to evaluate and receive special assistance under subparagraph (C) or (E) of subsection (a)(1);

“(D) take any other actions the Secretary determines are consistent with receiving special assistance under subparagraph (C) or (E) of subsection (a)(1) and receiving a grant under this subsection; and

“(E) as soon as practicable after receipt of the grant, but not later than September 30, 2001, take the actions described in subparagraphs (A) through (D).

“(2) *REPORT.*—

“(A) *IN GENERAL.*—Not later than January 1, 2002, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition and Forestry of the Senate a report on the activities of the State agencies receiving grants under this subsection.

“(B) *CONTENTS.*—In the report, the Secretary shall specify—

“(i) the number of schools identified as likely to benefit from electing to receive special assistance under subparagraph (C) or (E) of subsection (a)(1);

“(ii) the number of schools identified under this subsection that have elected to receive special assistance under subparagraph (C) or (E) of subsection (a)(1); and

“(iii) a description of how the funds and technical assistance made available under this subsection have been used.

“(3) *FUNDING.*—Out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Secretary \$2,250,000 for each of fiscal years 2000 and 2001 to carry out this subsection. The Secretary shall be entitled to receive the funds and shall accept the funds, without further appropriation.”.

(2) *TECHNICAL AMENDMENTS.*—The National School Lunch Act is amended in the second sentence of each of sections 21(e)(2)(A) and 26(d) (42 U.S.C. 1769b–1(e)(2)(A), 1769g(d)) by inserting at the end before the period “, without further appropriation”.

SEC. 104. MISCELLANEOUS PROVISIONS AND DEFINITIONS.

(a) *ADJUSTMENTS TO REIMBURSEMENT RATES.*—Section 12(f) of the National School Lunch Act (42 U.S.C. 1760(f)) is amended—

(1) by striking “school breakfasts and lunches” and inserting “breakfasts, lunches, suppers, and supplements”;

(2) by striking “sections 4 and 11” and inserting “sections 4, 11, 13, and 17”; and

(3) by striking “lunches and breakfasts” each place it appears and inserting “meals and supplements”.

(b) *CRIMINAL PENALTIES.*—Section 12(g) of the National School Lunch Act (42 U.S.C. 1760(g)) is amended by striking “\$10,000” and inserting “\$25,000”.

(c) *FOOD AND NUTRITION PROJECTS.*—Section 12(m) of the National School Lunch Act (42 U.S.C. 1760(m)) is amended by striking “1998” each place it appears and inserting “2003”.

(d) *BUY AMERICAN.*—Section 12 of the National School Lunch Act (42 U.S.C. 1760) is amended by adding at the end the following:

“(n) *BUY AMERICAN.*—

“(1) *DEFINITION OF DOMESTIC COMMODITY OR PRODUCT.*—In this subsection, the term ‘domestic commodity or product’ means—

“(A) an agricultural commodity that is produced in the United States; and

“(B) a food product that is processed in the United States substantially using agricultural commodities that are produced in the United States.

“(2) *REQUIREMENT.*—

“(A) *IN GENERAL.*—Subject to subparagraph (B), the Secretary shall require that a school food authority purchase, to the maximum extent practicable, domestic commodities or products.

“(B) *LIMITATIONS.*—Subparagraph (A) shall apply only to—

“(i) a school food authority located in the contiguous United States; and

“(ii) a purchase of a domestic commodity or product for the school lunch program under this Act or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

“(3) *APPLICABILITY TO HAWAII.*—Paragraph (2)(A) shall apply to a school food authority in Hawaii with respect to domestic commodities or products that are produced in Hawaii in sufficient quantities to meet the needs of meals provided under the school lunch program under this Act or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).”.

(e) *PROCUREMENT CONTRACTS.*—Section 12 of the National School Lunch Act (42 U.S.C. 1760), as amended by subsection (d), is further amended by adding at the end the following:

“(o) *PROCUREMENT CONTRACTS.*—In acquiring a good or service for programs under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) (other than section 17 of that Act (42 U.S.C. 1786)), a State, State agency, school, or school food authority may enter into a contract with a person that has provided specification information to the State, State agency, school, or school food authority for use in developing contract specifications for acquiring such good or service.”.

SEC. 105. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.

(a) *ESTABLISHMENT OF SITE LIMITATION.*—Section 13(a)(7)(B) of the National School Lunch Act (42 U.S.C. 1761(a)(7)(B)) is amended by striking clause (i) and inserting the following:

“(i) operate—

“(I) not more than 25 sites, with not more than 300 children being served at any 1 site; or

“(II) with a waiver granted by the State agency under standards developed by the Secretary, with not more than 500 children being served at any 1 site;”.

(b) **ELIMINATION OF MEAL CONTRACTING RESTRICTIONS, INDICATION OF INTEREST REQUIREMENT, AND VENDOR REGISTRATION REQUIREMENTS.**—Section 13 of the National School Lunch Act (42 U.S.C. 1761) is amended—

(1) in subsection (a)(7)(B)—

(A) by striking clauses (ii) and (iii); and

(B) by redesignating clauses (iv) through (vii) as clauses (ii) through (v) respectively; and

(2) in subsection (l)—

(A) in paragraph (1)—

(i) in the first sentence—

(I) by striking “(other than private nonprofit organizations eligible under subsection (a)(7))”; and

(II) by striking “only with food service management companies registered with the State in which they operate” and inserting “with food service management companies”; and

(ii) by striking the last sentence;

(B) in paragraph (2)—

(i) in the first sentence, by striking “shall” and inserting “may”; and

(ii) by striking the second and third sentences;

(C) by striking paragraph (3); and

(D) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(c) **OFFER VERSUS SERVE.**—Section 13(f)(7) of the National School Lunch Act (42 U.S.C. 1761(f)(7)) is amended in the first sentence by striking “attending a site on school premises operated directly by the authority”.

(d) **REAUTHORIZATION OF PROGRAM.**—Section 13(q) of the National School Lunch Act (42 U.S.C. 1761(q)) is amended by striking “1998” and inserting “2003”.

(e) **TECHNICAL AMENDMENT.**—

(1) **IN GENERAL.**—Section 706(j)(1) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2293) is amended by striking “methods of assessing” and inserting “methods for assessing”.

(2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) takes effect on January 1, 1997.

SEC. 106. COMMODITY DISTRIBUTION PROGRAM.

Section 14(a) of the National School Lunch Act (42 U.S.C. 1762a(a)) is amended in the matter preceding paragraph (1) by striking “1998” and inserting “2003”.

SEC. 107. CHILD AND ADULT CARE FOOD PROGRAM.

(a) **ELIGIBILITY OF INSTITUTIONS.**—Section 17(a) of the National School Lunch Act (42 U.S.C. 1766(a)) is amended—

(1) in the fourth sentence, by striking “Reimbursement” and inserting “Except as provided in subsection (r), reimbursement”; and

(2) in the sixth sentence, by striking paragraph (1) and inserting the following:

“(1) an institution (except a school or family or group day care home sponsoring organization) or family or group day care home shall—

“(A)(i) be licensed, or otherwise have approval, by the appropriate Federal, State, or local licensing authority; or

“(ii) be in compliance with appropriate procedures for renewing participation in the program, as prescribed by the Secretary, and not be the subject of information possessed by the State indicating that the license of the institution or home will not be renewed;

“(B) if Federal, State, or local licensing or approval is not available—

“(i) meet any alternate approval standards established by the appropriate State or local governmental agency; or

“(ii) meet any alternate approval standards established by the Secretary after consultation with the Secretary of Health and Human Services; or

“(C) if the institution provides care to school children outside of school hours and Federal, State, or local licensing or approval is not required for the institution, meet State or local health and safety standards; and”.

(b) **AUTOMATIC ELIGIBILITY FOR EVEN START PROGRAM PARTICIPANTS.**—Section 17(c)(6) of the National School Lunch Act (42 U.S.C. 1766(c)(6)) is amended—

(1) in subparagraph (A), by striking “(A)”; and

(2) by striking subparagraph (B).

(c) **PERIODIC SITE VISITS.**—Section 17(d) of the National School Lunch Act (42 U.S.C. 1766(d)) is amended—

(1) in the second sentence of paragraph (1), by inserting after “if it” the following: “has been visited by a State agency prior to approval and it”; and

(2) in paragraph (2)(A)—

(A) by striking “that allows” and inserting “that—

“(i) allows”;

(B) by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(ii) requires periodic site visits to private institutions that the State agency determines have a high probability of program abuse.”.

(d) **TAX EXEMPT STATUS AND REMOVAL OF NOTIFICATION REQUIREMENT FOR INCOMPLETE APPLICATIONS.**—Section 17(d)(1) of the National School Lunch Act (42 U.S.C. 1766(d)(1)) is amended—

(1) by inserting after the third sentence the following: “An institution moving toward compliance with the requirement for tax exempt status shall be allowed to participate in the child and adult care food program for a period of not more than 180 days, except that a State agency may grant a single extension

of not to exceed an additional 90 days if the institution demonstrates, to the satisfaction of the State agency, that the inability of the institution to obtain tax exempt status within the 180-day period is due to circumstances beyond the control of the institution.”; and

(2) by striking the last sentence.

(e) USE OF FUNDS FOR AUDITS.—Section 17(i) of the National School Lunch Act (42 U.S.C. 1766(i)) is amended by striking “2 percent” and inserting “1.5 percent (except, in the case of each of fiscal years 2005 through 2007, 1 percent)”.

(f) PERMANENT AUTHORIZATION OF DEMONSTRATION PROJECT.—Section 17(p) of the National School Lunch Act (42 U.S.C. 1766(p)) is amended by striking paragraphs (4) and (5).

(g) MANAGEMENT SUPPORT.—Section 17 of the National School Lunch Act (42 U.S.C. 1766) is amended by adding at the end the following:

“(q) MANAGEMENT SUPPORT.—

“(1) TECHNICAL AND TRAINING ASSISTANCE.—In addition to the training and technical assistance that is provided to State agencies under other provisions of this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), the Secretary shall provide training and technical assistance in order to assist the State agencies in improving their program management and oversight under this section.

“(2) FUNDING.—For each of fiscal years 1999 through 2003, the Secretary shall reserve to carry out paragraph (1) \$1,000,000 of the amounts made available to carry out this section.”.

(h) PARTICIPATION BY AT-RISK CHILD CARE PROGRAMS.—Section 17 of the National School Lunch Act (42 U.S.C. 1766), as amended by subsection (g), is further amended by adding at the end the following:

“(r) PROGRAM FOR AT-RISK SCHOOL CHILDREN.—

“(1) DEFINITION OF AT-RISK SCHOOL CHILD.—In this subsection, the term ‘at-risk school child’ means a school child who—

“(A) is not more than 18 years of age, except that the age limitation provided by this subparagraph shall not apply to a child described in section 12(d)(1)(A); and

“(B) participates in a program authorized under this section operated at a site located in a geographical area served by a school in which at least 50 percent of the children enrolled are certified as eligible to receive free or reduced price school meals under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

“(2) PARTICIPATION IN CHILD AND ADULT CARE FOOD PROGRAM.—An institution may participate in the program authorized under this section only if the institution provides supplements under a program—

“(A) organized primarily to provide care to at-risk school children during after-school hours, weekends, or holidays during the regular school year; and

“(B) with an educational or enrichment purpose.

“(3) *ADMINISTRATION.*—Except as otherwise provided in this subsection, the other provisions of this section apply to an institution described in paragraph (2).

“(4) *SUPPLEMENT REIMBURSEMENT.*—

“(A) *LIMITATIONS.*—An institution may claim reimbursement under this subsection only for—

“(i) a supplement served under a program organized primarily to provide care to at-risk school children during after-school hours, weekends, or holidays during the regular school year; and

“(ii) 1 supplement per child per day.

“(B) *RATE.*—A supplement shall be reimbursed under this subsection at the rate established for a free supplement under subsection (c)(3).

“(C) *NO CHARGE.*—A supplement claimed for reimbursement under this subsection shall be served without charge.”.

(i) *WIC INFORMATION.*—Section 17 of the National School Lunch Act (42 U.S.C. 1766), as amended by subsection (h), is further amended by adding at the end the following:

“(s) *INFORMATION CONCERNING THE SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN.*—

“(1) *IN GENERAL.*—The Secretary shall provide each State agency administering a child and adult care food program under this section with information concerning the special supplemental nutrition program for women, infants, and children authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

“(2) *REQUIREMENTS FOR STATE AGENCIES.*—Each State agency shall ensure that each participating family and group day care home and child care center (other than an institution providing care to school children outside school hours)—

“(A) receives materials that include—

“(i) a basic explanation of the importance and benefits of the special supplemental nutrition program for women, infants, and children;

“(ii) the maximum State income eligibility standards, according to family size, for the program; and

“(iii) information concerning how benefits under the program may be obtained;

“(B) receives periodic updates of the information described in subparagraph (A); and

“(C) provides the information described in subparagraph (A) to parents of enrolled children at enrollment.”.

(j) *TRANSFER OF HOMELESS PROGRAMS.*—

(1) *IN GENERAL.*—Section 17 of the National School Lunch Act (42 U.S.C. 1766), as amended by subsection (i), is further amended by adding at the end the following:

“(t) *PARTICIPATION BY EMERGENCY SHELTERS.*—

“(1) *DEFINITION OF EMERGENCY SHELTER.*—In this subsection, the term ‘emergency shelter’ means—

“(A) an emergency shelter (as defined in section 321 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11351)); or

“(B) a site operated by the shelter.

“(2) ADMINISTRATION.—Except as otherwise provided in this subsection, an emergency shelter shall be eligible to participate in the program authorized under this section in accordance with the terms and conditions applicable to eligible institutions described in subsection (a).

“(3) LICENSING REQUIREMENTS.—The licensing requirements contained in subsection (a)(1) shall not apply to an emergency shelter.

“(4) HEALTH AND SAFETY STANDARDS.—To be eligible to participate in the program authorized under this section, an emergency shelter shall comply with applicable State or local health and safety standards.

“(5) MEAL OR SUPPLEMENT REIMBURSEMENT.—

“(A) LIMITATIONS.—An emergency shelter may claim reimbursement under this subsection—

“(i) only for a meal or supplement served to children residing at an emergency shelter, if the children are—

“(I) not more than 12 years of age;

“(II) children of migrant workers, if the children are not more than 15 years of age; or

“(III) children with disabilities; and

“(ii) for not more than 3 meals, or 2 meals and a supplement, per child per day.

“(B) RATE.—A meal or supplement eligible for reimbursement shall be reimbursed at the rate at which free meals and supplements are reimbursed under subsection (c).

“(C) NO CHARGE.—A meal or supplement claimed for reimbursement shall be served without charge.”.

(2) CONFORMING AMENDMENTS.—

(A) Section 13(a)(3)(C) of the National School Lunch Act (42 U.S.C. 1761(a)(3)(C)) is amended—

(i) in clause (i), by adding “or” at the end;

(ii) by striking clause (ii); and

(iii) by redesignating clause (iii) as clause (ii).

(B) Section 17(a) of the National School Lunch Act (42 U.S.C. 1766(a)) is amended in the third sentence—

(i) by striking “and public” and inserting “public”; and

(ii) by inserting before the period at the end the following: “, and emergency shelters (as provided in subsection (t))”.

(C)(i) Section 17B of the National School Lunch Act (42 U.S.C. 1766b) is repealed.

(ii) Section 25(b)(1) of the National School Lunch Act (42 U.S.C. 1769f(b)(1)) is amended—

(I) by striking subparagraph (D); and

(G) as subparagraphs (D) through (F), respectively.

(3) TECHNICAL AMENDMENTS.—

(A) Section 12(d) of the National School Lunch Act (42 U.S.C. 1760(d)) is amended—

(i) in paragraph (1)(A), by striking “mental or physical” each place it appears; and

(ii) by adding at the end the following:

“(8) *DISABILITY*.—The term ‘disability’ has the meaning given the term in the Rehabilitation Act of 1973 for purposes of title II of that Act (29 U.S.C. 760 et seq.).”

(B) Section 13(a)(1) of the National School Lunch Act (42 U.S.C. 1761(a)(1)) is amended in subparagraph (D) of the second sentence—

(i) in clause (i), by striking “to be mentally or physically handicapped” and inserting “to have a disability”; and

(ii) in clause (ii), by striking “the mentally or physically handicapped” and inserting “individuals who have a disability”.

(C) Section 17(a) of the National School Lunch Act (42 U.S.C. 1766(a)) is amended by striking “handicaps” each place it appears and inserting “disabilities”.

(D) Section 15 of the Child Nutrition Act of 1966 (42 U.S.C. 1784) is amended—

(i) in paragraph (6), by striking “mental or physical handicaps” each place it appears and inserting “disabilities”; and

(ii) by adding at the end the following:

“(7) *DISABILITY*.—The term ‘disability’ has the meaning given the term in the Rehabilitation Act of 1973 for purposes of title II of that Act (29 U.S.C. 760 et seq.).”

(4) *EFFECTIVE DATE*.—The amendments made by paragraphs (1) and (2) take effect on July 1, 1999.

SEC. 108. MEAL SUPPLEMENTS FOR CHILDREN IN AFTERSCHOOL CARE.

(a) *GENERAL AUTHORITY*.—Section 17A(a) of the National School Lunch Act (42 U.S.C. 1766a(a)) is amended—

(1) in paragraph (1), by striking “supplements to” and inserting “supplements under a program organized primarily to provide care for”; and

(2) in paragraph (2), by striking subparagraph (C) and inserting the following:

“(C) operate afterschool programs with an educational or enrichment purpose.”.

(b) *ELIGIBLE CHILDREN*.—Section 17A(b) of the National School Lunch Act (42 U.S.C. 1766a(b)) is amended by striking “served to children” and all that follows and inserting “served to school children who are not more than 18 years of age, except that the age limitation provided by this subsection shall not apply to a child described in section 12(d)(1)(A).”.

(c) *REIMBURSEMENT*.—Section 17A(c) of the National School Lunch Act (42 U.S.C. 1766a(c)) is amended by striking “(c) REIMBURSEMENT.—For” and inserting the following:

“(c) *REIMBURSEMENT*.—

“(1) *AT-RISK SCHOOL CHILDREN*.—In the case of an eligible child who is participating in a program authorized under this section operated at a site located in a geographical area served by a school in which at least 50 percent of the children enrolled

are certified as eligible to receive free or reduced price school meals under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), a supplement provided under this section to the child shall be—

“(A) reimbursed at the rate at which free supplements are reimbursed under section 17(c)(3); and

“(B) served without charge.

“(2) OTHER SCHOOL CHILDREN.—In the case of an eligible child who is participating in a program authorized under this section at a site that is not described in paragraph (1), for”.

SEC. 109. PILOT PROJECTS.

(a) IN GENERAL.—Section 18 of the National School Lunch Act (42 U.S.C. 1769) is amended by striking subsections (c), (e), (g), and (h).

(b) BREAKFAST PILOT PROJECTS.—Section 18(i) of the National School Lunch Act (42 U.S.C. 1769(i)) is amended to read as follows:

“(i) BREAKFAST PILOT PROJECTS.—

“(1) IN GENERAL.—Subject to the availability of funds made available under paragraph (10), for a period of 3 successive school years, the Secretary shall make grants to State agencies to conduct pilot projects in elementary schools under the jurisdiction of not more than 6 school food authorities approved by the Secretary to—

“(A) reduce paperwork, simplify meal counting requirements, and make changes that will increase participation in the school breakfast program; and

“(B) evaluate the effect of providing free breakfasts to elementary school children, without regard to family income, on participation, academic achievement, attendance and tardiness, and dietary intake over the course of a day.

“(2) NOMINATIONS.—A State agency that seeks a grant under this subsection shall submit to the Secretary nominations of school food authorities to participate in a pilot project under this subsection

“(3) APPROVAL.—The Secretary shall approve for participation in pilot projects under this subsection elementary schools under the jurisdiction of not more than 6 nominated school food authorities selected so as to—

“(A) provide for an equitable distribution of pilot projects among urban and rural elementary schools;

“(B) provide for an equitable distribution of pilot projects among elementary schools of varying family income levels; and

“(C) permit the evaluation of pilot projects to distinguish the effects of the pilot projects from other factors, such as changes or differences in educational policies or program.

“(4) GRANTS TO SCHOOL FOOD AUTHORITIES.—A State agency receiving a grant under paragraph (1) shall make grants to school food authorities to conduct the pilot projects described in paragraph (1).

“(5) DURATION OF PILOT PROJECTS.—Subject to the availability of funds made available to carry out this subsection, a school food authority receiving amounts under a grant to con-

duct a pilot project described in paragraph (1) shall conduct the project during a period of 3 successive school years.

“(6) **WAIVER AUTHORITY.**—

“(A) **IN GENERAL.**—Except as provided in subparagraph (B), the Secretary may waive the requirements of this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) relating to counting of meals, applications for eligibility, and related requirements that would preclude the Secretary from making a grant to conduct a pilot project under paragraph (1).

“(B) **NONWAIVABLE REQUIREMENTS.**—The Secretary may not waive a requirement under subparagraph (A) if the waiver would prevent a program participant, a potential program participant, or a school from receiving all of the benefits and protections of this Act, the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), or a Federal law (including a regulation) that protects an individual constitutional right or a statutory civil right.

“(7) **REQUIREMENTS FOR PARTICIPATION IN PILOT PROJECT.**—To be eligible to participate in a pilot project under this subsection—

“(A) a State agency—

“(i) shall submit an application to the Secretary at such time and in such manner as the Secretary shall establish to meet criteria the Secretary has established to enable a valid evaluation to be conducted; and

“(ii) shall provide such information relating to the operation and results of the pilot project as the Secretary may reasonably require; and

“(B) a school food authority—

“(i) shall agree to serve all breakfasts at no charge to all children enrolled in participating elementary schools;

“(ii) shall not have a history of violations of this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

“(iii) shall have, under the jurisdiction of the school food authority, a sufficient number of elementary schools that are not participating in the pilot projects to permit a valid evaluation of the effects of the pilot projects; and

“(iv) shall meet all other requirements that the Secretary may reasonably require.

“(8) **EVALUATION OF PILOT PROJECTS.**—

“(A) **IN GENERAL.**—The Secretary, acting through the Administrator of the Food and Nutrition Service, shall conduct an evaluation of the pilot projects conducted by the school food authorities selected for participation.

“(B) **CONTENT.**—The evaluation shall include—

“(i) a determination of the effect of participation in the pilot project on the academic achievement, attendance and tardiness, and dietary intake over the course of a day of participating children that is not attrib-

utable to changes in educational policies and practices;
and

“(ii) a determination of the effect that participation by elementary schools in the pilot project has on the proportion of students who eat breakfast and on the paperwork required to be completed by the schools.

“(C) *REPORT*.—On completion of the pilot projects and the evaluation, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of the evaluation of the pilot projects required under subparagraph (A).

“(9) *REIMBURSEMENT*.—

“(A) *IN GENERAL*.—Except as provided in subparagraph (B), a school conducting a pilot project under this subsection shall receive a total Federal reimbursement under the school breakfast program in an amount that is equal to the total Federal reimbursement for the school for the prior year under the program (adjusted to reflect changes in the series for food away from home of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor and adjusted for fluctuations in enrollment).

“(B) *EXCESS NEEDS*.—Funds required for the pilot project in excess of the level of reimbursement received by the school for the prior year (adjusted to reflect changes described in subparagraph (A) and adjusted for fluctuations in enrollment) may be taken from any non-Federal source or from amounts provided under this subsection.

“(10) *AUTHORIZATION OF APPROPRIATIONS*.—

“(A) *IN GENERAL*.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.

“(B) *REQUIREMENT*.—No amounts may be provided under this subsection unless specifically provided in appropriations Acts.”.

(c) *CONFORMING AMENDMENTS*.—

(1) Section 18 of the National School Lunch Act (42 U.S.C. 1769), as amended by subsections (a) and (b), is further amended by redesignating subsections (d), (f), and (i) as subsections (c), (d), and (e), respectively.

(2) Section 101(b) of the Child Nutrition Amendments of 1992 (42 U.S.C. 1769 note; Public Law 102-342) is amended—

(A) in paragraph (1)—

(i) by striking “(1)”; and

(ii) by striking “other than those required under section 18(c) of the National School Lunch Act (42 U.S.C 1769(c)) to identify other” and inserting “to identify”; and

(B) by striking paragraph (2).

SEC. 110. TRAINING, TECHNICAL ASSISTANCE, AND FOOD SERVICE MANAGEMENT INSTITUTE.

(a) **TECHNICAL AMENDMENTS.**—Section 21(c)(2) of the National School Lunch Act (42 U.S.C. 1769b–1(c)(2)) is amended by striking “of section 24” each place it appears in subparagraphs (F) and (H) and inserting “established by the Secretary”.

(b) **TRAINING AND TECHNICAL ASSISTANCE.**—Section 21(e)(1) of the National School Lunch Act (42 U.S.C. 1769b–1(e)(1)) is amended by striking “1998” and inserting “2003”.

(c) **FOOD SERVICE MANAGEMENT INSTITUTE.**—Section 21(e)(2)(A) of the National School Lunch Act (42 U.S.C. 1769b–1(e)(2)(A)) is amended in the first sentence by striking “and \$2,000,000 for fiscal year 1996 and each subsequent fiscal year,” and inserting “\$2,000,000 for each of fiscal years 1996 through 1998, and \$3,000,000 for fiscal year 1999 and each subsequent fiscal year,”.

SEC. 111. COMPLIANCE AND ACCOUNTABILITY.

Section 22(d) of the National School Lunch Act (42 U.S.C. 1769c(d)) is amended by striking “1996” and inserting “2003”.

SEC. 112. INFORMATION CLEARINGHOUSE.

Section 26(d) of the National School Lunch Act (42 U.S.C. 1769g(d)) is amended in the first sentence by striking “and \$100,000 for fiscal year 1998” and inserting “\$100,000 for fiscal year 1998, and \$166,000 for each of fiscal years 1999 through 2003”.

SEC. 113. ACCOMMODATION OF THE SPECIAL DIETARY NEEDS OF INDIVIDUALS WITH DISABILITIES.

Section 27 of the National School Lunch Act (42 U.S.C. 1769h) is amended to read as follows:

“SEC. 27. ACCOMMODATION OF THE SPECIAL DIETARY NEEDS OF INDIVIDUALS WITH DISABILITIES.

“(a) DEFINITIONS.—In this section:

“(1) COVERED PROGRAM.—The term ‘covered program’ means—

“(A) the school lunch program authorized under this Act;

“(B) the school breakfast program authorized under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773); and

“(C) any other program authorized under this Act or the Child Nutrition Act of 1966 (except for section 17) that the Secretary determines is appropriate.

“(2) ELIGIBLE ENTITY.—The term ‘eligible entity’ means a school food authority, institution, or service institution that participates in a covered program.

“(b) ACTIVITIES.—The Secretary may carry out activities to help accommodate the special dietary needs of individuals with disabilities who are participating in a covered program. The activities may include—

“(1) developing and disseminating to State agencies guidance and technical assistance materials;

“(2) conducting training of State agencies and eligible entities; and

“(3) providing grants to State agencies and eligible entities.

“(c) *AUTHORIZATION OF APPROPRIATIONS.*—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 1999 through 2003.”

TITLE II—SCHOOL BREAKFAST AND RELATED PROGRAMS

SEC. 201. SCHOOL BREAKFAST PROGRAM AUTHORIZATION.

Section 4(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(a)) is amended in the first sentence by striking “and to carry out the provisions of subsection (g)”.

SEC. 202. STATE ADMINISTRATIVE EXPENSES.

(a) *HOMELESS SHELTERS.*—Section 7(a)(5)(B) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)(5)(B)) is amended to read as follows:

“(B) *REALLOCATION OF FUNDS.*—

“(i) *RETURN TO SECRETARY.*—For each fiscal year, any amounts appropriated that are not obligated or expended during the fiscal year and are not carried over for the succeeding fiscal year under subparagraph (A) shall be returned to the Secretary.

“(ii) *REALLOCATION BY SECRETARY.*—The Secretary shall allocate, for purposes of administrative costs, any remaining amounts among States that demonstrate a need for the amounts.”.

(b) *ELIMINATION OF 10 PERCENT TRANSFER LIMITATION.*—Section 7(a)(6) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)(6)) is amended to read as follows:

“(6) *USE OF ADMINISTRATIVE FUNDS.*—Funds available to a State under this subsection and under section 13(k)(1) of the National School Lunch Act (42 U.S.C. 1761(k)(1)) may be used by the State for the costs of administration of the programs authorized under this Act (except for the programs authorized under sections 17 and 21) and the National School Lunch Act (42 U.S.C. 1751 et seq.) without regard to the basis on which the funds were earned and allocated.”.

(c) *REAUTHORIZATION OF PROGRAM.*—Section 7(g) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(g)) is amended by striking “1998” and inserting “2003”.

SEC. 203. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN.

(a) *ADDITIONAL REQUIREMENTS FOR APPLICANTS.*—

(1) *PHYSICAL PRESENCE REQUIREMENT.*—Section 17(d)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(3)) is amended by adding at the end the following:

“(C) *PHYSICAL PRESENCE.*—

“(i) *IN GENERAL.*—Except as provided in clause (ii) and subject to the requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), each individual seeking certification or recertification for participation in the program shall be physically present at each certification or recertification de-

termination in order to determine eligibility under the program.

“(ii) **WAIVERS.**—If the agency determines that the requirement of clause (i) would present an unreasonable barrier to participation, a local agency may waive the requirement of clause (i) with respect to—

“(I) an infant or child who—

“(aa) was present at the initial certification visit; and

“(bb) is receiving ongoing health care from a provider other than the local agency; or

“(II) an infant or child who—

“(aa) was present at the initial certification visit;

“(bb) was present at a certification or recertification determination within the 1-year period ending on the date of the certification or recertification determination described in clause (i); and

“(cc) has 1 or more parents who work.”.

(2) **INCOME DOCUMENTATION REQUIREMENT.**—Section 17(d)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(3)), as amended by paragraph (1), is further amended by adding at the end the following:

“(D) **INCOME DOCUMENTATION.**—

“(i) **IN GENERAL.**—Except as provided in clause (ii), in order to participate in the program pursuant to clause (i) of paragraph (2)(A), an individual seeking certification or recertification for participation in the program shall provide documentation of family income.

“(ii) **WAIVERS.**—A State agency may waive the documentation requirement of clause (i), in accordance with criteria established by the Secretary, with respect to—

“(I) an individual for whom the necessary documentation is not available; or

“(II) an individual, such as a homeless woman or child, for whom the agency determines the requirement of clause (i) would present an unreasonable barrier to participation.”.

(3) **ADJUNCT DOCUMENTATION REQUIREMENT.**—Section 17(d)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(3)), as amended by paragraph (2), is further amended by adding at the end the following:

“(E) **ADJUNCT DOCUMENTATION.**—In order to participate in the program pursuant to clause (ii) or (iii) of paragraph (2)(A), an individual seeking certification or recertification for participation in the program shall provide documentation of receipt of assistance described in that clause.”.

(b) **EDUCATION AND EDUCATIONAL MATERIALS RELATING TO EFFECTS OF DRUG AND ALCOHOL USE.**—Section 17(e)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(e)(1)) is amended by adding at the end the following: “A local agency participating in the program shall provide education or educational materials relating to

the effects of drug and alcohol use by a pregnant, postpartum, or breastfeeding woman on the developing child of the woman.”.

(c) *DISTRIBUTION OF NUTRITION EDUCATION MATERIALS.*—Section 17(e)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(e)(3)) is amended—

(1) by striking “(3) The” and inserting the following:

“(3) *NUTRITION EDUCATION MATERIALS.*—

“(A) *IN GENERAL.*—The”; and

(2) by adding at the end the following:

“(B) *SHARING OF MATERIALS.*—The Secretary may provide, in bulk quantity, nutrition education materials (including materials promoting breastfeeding) developed with funds made available for the program authorized under this section to State agencies administering the commodity supplemental food program authorized under sections 4(a) and 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note; Public Law 93–86) at no cost to that program.”.

(d) *USE OF CLAIMS FROM VENDORS AND PARTICIPANTS.*—Section 17(f)(21) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(21)) is amended to read as follows:

“(21) *USE OF CLAIMS FROM VENDORS AND PARTICIPANTS.*—

A State agency may use funds recovered from vendors and participants, as a result of a claim arising under the program, to carry out the program during—

“(A) the fiscal year in which the claim arises;

“(B) the fiscal year in which the funds are collected;

and

“(C) the fiscal year following the fiscal year in which the funds are collected.”.

(e) *INDIVIDUALS PARTICIPATING AT MORE THAN 1 SITE.*—Section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)) is amended by adding at the end the following:

“(23) *INDIVIDUALS PARTICIPATING AT MORE THAN 1 SITE.*—

Each State agency shall implement a system designed by the State agency to identify individuals who are participating at more than 1 site under the program.”.

(f) *IDENTIFICATION OF HIGH RISK VENDORS; COMPLIANCE INVESTIGATIONS.*—

(1) *IN GENERAL.*—Section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)), as amended by subsection (e), is further amended by adding at the end the following:

“(24) *HIGH RISK VENDORS.*—Each State agency shall—

“(A) identify vendors that have a high probability of program abuse; and

“(B) conduct compliance investigations of the vendors.”.

(2) *REGULATIONS.*—The Secretary of Agriculture shall promulgate—

(A) not later than March 1, 1999, proposed regulations to carry out section 17(f)(24) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(24)), as added by paragraph (1); and

(B) not later than March 1, 2000, final regulations to carry out section 17(f)(24) of that Act.

(g) *REAUTHORIZATION OF PROGRAM.*—Section 17(g)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(g)(1)) is amended in the first sentence by striking “1998” and inserting “2003”.

(h) *PURCHASE OF BREAST PUMPS.*—Section 17(h)(1)(C) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(1)(C)) is amended—
(1) by striking “(C) In” and inserting the following:

“(C) *REMAINING AMOUNTS.*—

“(i) *IN GENERAL.*—Except as provided in clause (ii), in”; and

(2) by adding at the end the following:

“(ii) *BREAST PUMPS.*—A State agency may use amounts made available under clause (i) for the purchase of breast pumps.”.

(i) *NUTRITION SERVICES AND ADMINISTRATION.*—

(1) *ALLOCATION OF AMOUNTS.*—Section 17(h)(2)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(2)(A)) is amended in the first sentence by striking “1998” and inserting “2003”.

(2) *TECHNICAL AMENDMENT.*—Section 17(h)(2)(A)(iv) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(2)(A)(iv)) is amended by striking “, to the extent funds are not already provided under subparagraph (I)(v) for the same purpose,”.

(3) *LEVEL OF PER-PARTICIPANT EXPENDITURE FOR NUTRITION SERVICES AND ADMINISTRATION.*—Section 17(h)(2)(B)(ii) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(2)(B)(ii)) is amended by striking “15 percent” and inserting “10 percent (except that the Secretary may establish a higher percentage for State agencies that are small)”.

(4) *TECHNICAL AMENDMENTS.*—Section 17(h)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(3)) is amended—

(A) in subparagraph (E), by striking “In the case” and all that follows through “subsequent fiscal year,” and inserting “For each fiscal year,”; and

(B) by striking subparagraphs (F) and (G).

(5) *CONVERSION OF AMOUNTS FOR SUPPLEMENTAL FOODS TO AMOUNTS FOR NUTRITION SERVICES AND ADMINISTRATION.*—Section 17(h)(5)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(5)(A)) is amended in the matter preceding clause (i) by striking “achieves” and all that follows through “such State agency may” and inserting “submits a plan to reduce average food costs per participant and to increase participation above the level estimated for the State agency, the State agency may, with the approval of the Secretary,”.

(j) *INFANT FORMULA PROCUREMENT.*—Section 17(h)(8)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)(A)) is amended by adding at the end the following:

“(iii) *COMPETITIVE BIDDING SYSTEM.*—A State agency using a competitive bidding system for infant formula shall award contracts to bidders offering the lowest net price unless the State agency demonstrates to the satisfaction of the Secretary that the weighted average retail price for different brands of infant formula in the State does not vary by more than 5 percent.”.

(k) *INFRASTRUCTURE AND BREASTFEEDING PROMOTION AND SUPPORT ACTIVITIES.*—Section 17(h)(10)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(10)(A)) is amended by striking “1998” and inserting “2003”.

(l) *CONSIDERATION OF PRICE LEVELS OF RETAIL STORES FOR PARTICIPATION IN PROGRAM.*—

(1) *IN GENERAL.*—Section 17(h) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)) is amended by adding at the end the following:

“(11) *CONSIDERATION OF PRICE LEVELS OF RETAIL STORES FOR PARTICIPATION IN PROGRAM.*—

“(A) *IN GENERAL.*—For the purpose of promoting efficiency and to contain costs under the program, a State agency shall, in selecting a retail store for participation in the program, take into consideration the prices that the store charges for foods under the program as compared to the prices that other stores charge for the foods.

“(B) *SUBSEQUENT PRICE INCREASES.*—The State agency shall establish procedures to ensure that a retail store selected for participation in the program does not subsequently raise prices to levels that would otherwise make the store ineligible for participation in the program.”.

(2) *REGULATIONS.*—The Secretary of Agriculture shall promulgate—

(A) not later than March 1, 1999, proposed regulations to carry out section 17(h)(11) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(11)), as added by paragraph (1); and

(B) not later than March 1, 2000, final regulations to carry out section 17(h)(11) of that Act.

(m) *MANAGEMENT INFORMATION SYSTEM PLAN.*—Section 17(h) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)), as amended by subsection (l)(1), is further amended by adding at the end the following:

“(12) *MANAGEMENT INFORMATION SYSTEM PLAN.*—

“(A) *IN GENERAL.*—In consultation with State agencies, vendors, and other interested persons, the Secretary shall establish a long-range plan for the development and implementation of management information systems (including electronic benefit transfers) to be used in carrying out the program.

“(B) *REPORT.*—Not later than 2 years after the date of enactment of this paragraph, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on actions taken to carry out subparagraph (A).

“(C) *INTERIM PERIOD.*—Prior to the date of submission of the report of the Secretary required under subparagraph (B), a State agency may not require retail stores to pay the cost of systems or equipment that may be required to test electronic benefit transfer systems.”.

(n) *USE OF FUNDS IN PRECEDING AND SUBSEQUENT FISCAL YEARS.*—

(1) *IN GENERAL.*—Section 17(i)(3)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(i)(3)(A)) is amended—

(A) by striking “subparagraphs (B) and (C)” and inserting “subparagraph (B)”; and

(B) by striking clauses (i) and (ii) and inserting the following:

“(i)(I) not more than 1 percent (except as provided in subparagraph (C)) of the amount of funds allocated to a State agency under this section for supplemental foods for a fiscal year may be expended by the State agency for allowable expenses incurred under this section for supplemental foods during the preceding fiscal year; and

“(II) not more than 1 percent of the amount of funds allocated to a State agency under this section for nutrition services and administration for a fiscal year may be expended by the State agency for allowable expenses incurred under this section for supplemental foods and nutrition services and administration during the preceding fiscal year; and

“(ii)(I) for each fiscal year, of the amounts allocated to a State agency for nutrition services and administration, an amount equal to not more than 1 percent of the amount allocated to the State agency under this section for the fiscal year may be expended by the State agency for allowable expenses incurred under this section for nutrition services and administration during the subsequent fiscal year; and

“(II) for each fiscal year, of the amounts allocated to a State agency for nutrition services and administration, an amount equal to not more than $\frac{1}{2}$ of 1 percent of the amount allocated to the State agency under this section for the fiscal year may be expended by the State agency, with the prior approval of the Secretary, for the development of a management information system, including an electronic benefit transfer system, during the subsequent fiscal year.”

(2) *CONFORMING AMENDMENTS.*—Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended—

(A) in subsection (h)(10)(A), by inserting after “nutrition services and administration funds” the following: “and supplemental foods funds”; and

(B) in subsection (i)(3)—

(i) by striking subparagraphs (C) through (G); and

(ii) by redesignating subparagraph (H) as subparagraph (C).

(o) *FARMERS’ MARKET NUTRITION PROGRAM.*—

(1) *MATCHING REQUIREMENT.*—Section 17(m)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(m)(3)) is amended in the first sentence by inserting “program income or” after “satisfied from”.

(2) *CRITERIA FOR ADDITIONAL FUNDS.*—Section 17(m)(6)(C) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(m)(6)(C)) is amended—

(A) by striking “serve additional recipients in”;

(B) by striking clause (ii) and inserting the following:

“(ii) documentation that demonstrates that—

“(I) there is a need for an increase in funds; and

“(II) the use of the increased funding will be consistent with serving nutritionally at-risk persons and expanding the awareness and use of farmers’ markets;”;

(C) in clause (iii), by striking the period at the end and inserting “; and”; and

(D) by adding at the end the following:

“(iv) whether, in the case of a State that intends to use any funding provided under subparagraph (G)(i) to increase the value of the Federal share of the benefits received by a recipient, the funding provided under subparagraph (G)(i) will increase the rate of coupon redemption.”.

(3) RANKING CRITERIA FOR STATE PLANS.—Section 17(m)(6) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(m)(6)) is amended—

(A) by striking subparagraph (F); and

(B) by redesignating subparagraph (G) as subparagraph (F).

(4) FUNDING FOR CURRENT AND NEW STATES.—Section 17(m)(6)(F) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(m)(6)(F)), as redesignated by paragraph (3)(B), is amended—

(A) in clause (i)—

(i) in the first sentence, by striking “that wish” and all follows through “to do so” and inserting “whose State plan”; and

(ii) in the second sentence, by striking “for additional recipients”;

(B) in the second sentence of clause (ii), by striking “that desire to serve additional recipients, and”.

(5) REAUTHORIZATION OF PROGRAM.—Section 17(m)(9)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(m)(9)(A)) is amended by striking “1998” and inserting “2003”.

(p) DISQUALIFICATION OF CERTAIN VENDORS.—

(1) IN GENERAL.—Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended by adding at the end the following:

“(o) DISQUALIFICATION OF VENDORS CONVICTED OF TRAFFICKING OR ILLEGAL SALES.—

“(1) IN GENERAL.—Except as provided in paragraph (4), a State agency shall permanently disqualify from participation in the program authorized under this section a vendor convicted of—

“(A) trafficking in food instruments (including any voucher, draft, check, or access device (including an electronic benefit transfer card or personal identification number) issued in lieu of a food instrument under this section); or

“(B) selling firearms, ammunition, explosives, or controlled substances (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) in exchange for food instruments (including any item described in subparagraph (A) issued in lieu of a food instrument under this section).

“(2) NOTICE OF DISQUALIFICATION.—The State agency shall—

“(A) provide the vendor with notification of the disqualification; and

“(B) make the disqualification effective on the date of receipt of the notice of disqualification.

“(3) PROHIBITION OF RECEIPT OF LOST REVENUES.—A vendor shall not be entitled to receive any compensation for revenues lost as a result of disqualification under this subsection.

“(4) EXCEPTIONS IN LIEU OF DISQUALIFICATION.—

“(A) IN GENERAL.—A State agency may permit a vendor that, but for this paragraph, would be disqualified under paragraph (1), to continue to participate in the program if the State agency determines, in its sole discretion according to criteria established by the Secretary, that—

“(i) disqualification of the vendor would cause hardship to participants in the program authorized under this section; or

“(ii)(I) the vendor had, at the time of the violation under paragraph (1), an effective policy and program in effect to prevent violations described in paragraph (1); and

“(II) the ownership of the vendor was not aware of, did not approve of, and was not involved in the conduct of the violation.

“(B) CIVIL PENALTY.—If a State agency under subparagraph (A) permits a vendor to continue to participate in the program in lieu of disqualification, the State agency shall assess the vendor a civil penalty in an amount determined by the State agency, in accordance with criteria established by the Secretary, except that—

“(i) the amount of the civil penalty shall not exceed \$10,000 for each violation; and

“(ii) the amount of civil penalties imposed for violations investigated as part of a single investigation may not exceed \$40,000.”.

(2) REGULATIONS.—The Secretary of Agriculture shall promulgate—

(A) not later than March 1, 1999, proposed regulations to carry out section 17(o) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(o)), as added by paragraph (1); and

(B) not later than March 1, 2000, final regulations to carry out section 17(o) of that Act.

(q) CRIMINAL FORFEITURE.—Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), as amended by subsection (p)(1), is amended by adding at the end the following:

“(p) CRIMINAL FORFEITURE.—

“(1) IN GENERAL.—Notwithstanding any provision of State law and in addition to any other penalty authorized by law, a court may order a person that is convicted of a violation of a provision of law described in paragraph (2), with respect to food instruments (including any item described in subsection (o)(1)(A) issued in lieu of a food instrument under this section), funds, assets, or property that have a value of \$100 or more and that are the subject of a grant or other form of assistance under

this section, to forfeit to the United States all property described in paragraph (3).

“(2) APPLICABLE LAWS.—A provision of law described in this paragraph is—

“(A) section 12(g) of the National School Lunch Act (42 U.S.C. 1760(g)); and

“(B) any other Federal law imposing a penalty for embezzlement, willful misapplication, stealing, obtaining by fraud, or trafficking in food instruments (including any item described in subsection (o)(1)(A) issued in lieu of a food instrument under this section), funds, assets, or property.

“(3) PROPERTY SUBJECT TO FORFEITURE.—The following property shall be subject to forfeiture under paragraph (1):

“(A) All property, real and personal, used in a transaction or attempted transaction, to commit, or to facilitate the commission of, a violation described in paragraph (1).

“(B) All property, real and personal, constituting, derived from, or traceable to any proceeds a person obtained directly or indirectly as a result of a violation described in paragraph (1).

“(4) PROCEDURES; INTEREST OF OWNER.—Except as provided in paragraph (5), all property subject to forfeiture under this subsection, any seizure or disposition of the property, and any proceeding relating to the forfeiture, seizure, or disposition shall be subject to section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), other than subsection (d) of that section.

“(5) PROCEEDS.—The proceeds from any sale of forfeited property and any amounts forfeited under this subsection shall be used—

“(A) first, to reimburse the Department of Justice, the Department of the Treasury, and the United States Postal Service for the costs incurred by the Departments or Service to initiate and complete the forfeiture proceeding;

“(B) second, to reimburse the Office of Inspector General of the Department of Agriculture for any costs incurred by the Office in the law enforcement effort resulting in the forfeiture;

“(C) third, to reimburse any Federal, State, or local law enforcement agency for any costs incurred in the law enforcement effort resulting in the forfeiture; and

“(D) fourth, by the State agency to carry out approval, reauthorization, and compliance investigations of vendors.”.

(r) STUDY OF COST CONTAINMENT PRACTICES.—

(1) IN GENERAL.—The Secretary of Agriculture shall conduct a study on the effect of cost containment practices established by States under the special supplemental nutrition program for women, infants, and children authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) for the selection of vendors and approved food items (other than infant formula) on—

(A) program participation;

(B) access and availability of prescribed foods;

(C) voucher redemption rates and actual food selections by participants;

(D) participants on special diets or with specific food allergies;

(E) participant use and satisfaction of prescribed foods;

(F) achievement of positive health outcomes; and

(G) program costs.

(2) *REPORT.*—The Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate—

(A) not later than 2 years after the date of enactment of this Act, an interim report describing the results of the study conducted under paragraph (1); and

(B) not later than 3 years after the date of enactment of this Act, a final report describing the results of the study conducted under paragraph (1).

(s) *STUDY OF WIC SERVICES.*—

(1) *IN GENERAL.*—The Comptroller General of the United States shall conduct a study that assesses—

(A) the cost of delivering services under the special supplemental nutrition program for women, infants, and children authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), including the costs of implementing and administering cost containment efforts;

(B) the fixed and variable costs incurred by State and local governments for delivering the services and the extent to which those costs are charged to State agencies;

(C) the quality of the services delivered, taking into account the effect of the services on the health of participants; and

(D) the costs incurred for personnel, automation, central support, and other activities to deliver the services and whether the costs meet Federal audit standards for allowable costs under the program.

(2) *REPORT.*—Not later than 3 years after the date of enactment of this Act, the Comptroller General shall submit to the Secretary of Agriculture, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the results of the study conducted under paragraph (1).

SEC. 204. NUTRITION EDUCATION AND TRAINING.

Section 19(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(i)) is amended—

(1) by striking the subsection heading and all that follows through paragraph (3)(A) and inserting the following:

“(i) *AUTHORIZATION OF APPROPRIATIONS.*—

“(1) *IN GENERAL.*—

“(A) *FUNDING.*—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 1997 through 2003.”; and

(2) by redesignating paragraphs (4) and (5) as paragraphs (2) and (3), respectively.

TITLE III—COMMODITY DISTRIBUTION PROGRAMS

SEC. 301. INFORMATION FROM RECIPIENT AGENCIES.

Section 3(f)(2) of the Commodity Distribution Reform Act and WIC Amendments of 1987 (7 U.S.C. 612c note; Public Law 100-237) is amended to read as follows:

“(2) INFORMATION FROM RECIPIENT AGENCIES.—

“(A) IN GENERAL.—The Secretary shall ensure that information with respect to the types and forms of commodities that are most useful to persons participating in programs described in subsection (a)(2) is collected from recipient agencies operating the programs.

“(B) FREQUENCY.—The information shall be collected at least once every 2 years.

“(C) ADDITIONAL SUBMISSIONS.—The Secretary shall provide the recipient agencies a means for voluntarily submitting customer acceptability information.”.

SEC. 302. FOOD DISTRIBUTION.

The Commodity Distribution Reform Act and WIC Amendments of 1987 (7 U.S.C. 612c note; Public Law 100-237) is amended—

(1) by redesignating sections 13 and 14 as sections 17 and 18, respectively; and

(2) by inserting after section 12 the following:

“SEC. 13. AUTHORITY TO TRANSFER COMMODITIES BETWEEN PROGRAMS.

“(a) TRANSFER.—Subject to subsection (b), the Secretary may transfer any commodities purchased with appropriated funds for a domestic food assistance program administered by the Secretary to any other domestic food assistance program administered by the Secretary if the transfer is necessary to ensure that the commodities will be used while the commodities are still suitable for human consumption.

“(b) REIMBURSEMENT.—The Secretary shall, to the maximum extent practicable, provide reimbursement for the value of the commodities transferred under subsection (a) from accounts available for the purchase of commodities under the program receiving the commodities.

“(c) CREDITING.—Any reimbursement made under subsection (b) shall—

“(1) be credited to the accounts that incurred the costs when the transferred commodities were originally purchased; and

“(2) be available for the purchase of commodities with the same limitations as are provided for appropriated funds for the reimbursed accounts for the fiscal year in which the transfer takes place.

“SEC. 14. AUTHORITY TO RESOLVE CLAIMS.

“(a) IN GENERAL.—The Secretary may determine the amount of, settle, and adjust all or part of a claim arising under a domestic food assistance program administered by the Secretary.

“(b) WAIVER.—The Secretary may waive a claim described in subsection (a) if the Secretary determines that a waiver would serve the purposes of the program.

*“(c) **AUTHORITY OF THE ATTORNEY GENERAL.**—Nothing in this section diminishes the authority of the Attorney General under section 516 of title 28, United States Code, or any other provision of law, to supervise and conduct litigation on behalf of the United States.*

“SEC. 15. PAYMENT OF COSTS ASSOCIATED WITH REMOVAL OF COMMODITIES THAT POSE A HEALTH OR SAFETY RISK.

*“(a) **IN GENERAL.**—The Secretary may use funds available to carry out section 32 of the Act of August 24, 1935 (49 Stat. 774, chapter 641; 7 U.S.C. 612c), that are not otherwise committed, for the purpose of reimbursing States for State and local costs associated with the removal of commodities distributed under any domestic food assistance program administered by the Secretary if the Secretary determines that the commodities pose a health or safety risk.*

*“(b) **ALLOWABLE COSTS.**—The costs—*

“(1) may include costs for storage, transportation, processing, and destruction of the commodities described in subsection (a); and

“(2) shall be subject to the approval of the Secretary.

*“(c) **REPLACEMENT COMMODITIES.**—*

*“(1) **IN GENERAL.**—The Secretary may use funds described in subsection (a) for the purpose of purchasing additional commodities if the purchase will expedite replacement of the commodities described in subsection (a).*

*“(2) **RECOVERY.**—Use of funds under paragraph (1) shall not restrict the Secretary from recovering funds or services from a supplier or other entity regarding the commodities described in subsection (a).*

*“(d) **CREDITING OF RECOVERED FUNDS.**—Funds recovered from a supplier or other entity regarding the commodities described in subsection (a) shall—*

“(1) be credited to the account available to carry out section 32 of the Act of August 24, 1935 (49 Stat. 774, chapter 641; 7 U.S.C. 612c), to the extent the funds represent expenditures from that account under subsections (a) and (c); and

“(2) remain available to carry out the purposes of section 32 of that Act until expended.

*“(e) **TERMINATION DATE.**—The authority provided by this section terminates effective October 1, 2000.*

“SEC. 16. AUTHORITY TO ACCEPT COMMODITIES DONATED BY FEDERAL SOURCES.

*“(a) **IN GENERAL.**—The Secretary may accept donations of commodities from any Federal agency, including commodities of another Federal agency determined to be excess personal property pursuant to section 202(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(d)).*

*“(b) **USE.**—The Secretary may donate the commodities received under subsection (a) to States for distribution through any domestic food assistance program administered by the Secretary.*

*“(c) **PAYMENT.**—Notwithstanding section 202(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(d)), the Secretary shall not be required to make any payment in connection with the commodities received under subsection (a).”*

TITLE IV—EFFECTIVE DATE

SEC. 401. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act and the amendments made by this Act take effect on October 1, 1998.

And the Senate agree to the same.

From the Committee on Education and the Workforce, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

BILL GOODLING,
FRANK RIGGS,
MIKE CASTLE,
W. L. CLAY,
M. G. MARTINEZ,

From the Committee on Agriculture, for consideration of secs. 2, 101, 104(b), 106, 202(c), and 202(o) of the House bill, and secs. 101, 111, 114, 203(c), 203(r), and titles III and IV of the Senate amendment, and modifications committed to conference:

BOB SMITH,
BOB GOODLATTE,
CHARLIE STENHOLM,

Managers on the Part of the House.

RICHARD G. LUGAR,
THAD COCHRAN,
MITCH MCCONNELL,
TOM HARKIN,
PATRICK J. LEAHY,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3874) to reauthorize the Child Nutrition and Special Supplemental Feeding program for Women, Infants and Children programs, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

EXPLANATION OF THE CONFERENCE AGREEMENT

1. PROVISION OF COMMODITIES

Present law

Permanently appropriated "Section 32" funds are required to be used to pay, in cash, for any shortfall in states' commodity entitlement, and this money is exempt from state matching requirements. [Sec. 6(c) & (d) of the NSLA]

House bill

Deletes out-of-date provisions of current law regarding payments for commodity entitlement shortfalls and the related exemption from state matching requirements. [Sec. 101]

Senate amendment

Same as the House bill, with technical differences. [Sec. 101]

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

2. WAIVER OF REQUIREMENT FOR WEIGHTED AVERAGES FOR NUTRIENT ANALYSIS

Present law

No provision.

House bill

No provision.

Senate amendment

Bars the Secretary from requiring the use of weighted averages for nutrient analysis of menu items and foods offered or served as part of reimbursable meals in school meal programs—through September 2003. [Sec. 102]

Conference agreement

The conference agreement adopts the Senate provision.

3. HEALTH AND SAFETY INSPECTIONS

Present law

No provision.

House bill

Requires schools, twice during each school year, to obtain state or local health and safety inspections to ensure that meals provided under school meal programs are prepared and served in a healthful and safe environment—if the school's food service operations are not required by state or local law to undergo health and safety inspections. [Sec. 102(a)]

Senate amendment

Requires schools, at least once during each school year, to obtain a food safety inspection conducted by a state or local government agency responsible for food safety inspections—if a food safety inspection of the school is not required by a state or local authority. [Sec. 103]

Conference agreement

The conference agreement adopts the Senate provision with an amendment.

It is the intent of the Conference Committee that schools which have a requirement for food safety inspections, regardless of the time frame, are in compliance with this provision.

The Committee also understands that, in certain localities, local offices of the State Health Department conduct voluntary health and safety inspections in schools. It is the Committee's interpretation of this provision that any such voluntary inspection performed at least once a year fulfills the school's obligation to complete annual health and safety inspections.

4. SINGLE PERMANENT AGREEMENTS BETWEEN STATE AGENCIES AND SCHOOL FOOD AUTHORITIES

Present law

No provision.

House bill

Requires single agreements between state agencies and school food authorities operating multiple child nutrition programs (school

meal programs, summer programs, and child care food programs)—to the extent that a single state agency administers the programs involved. The agreements are to be permanent, but may be amended as necessary. [Sec. 102(b)]

Senate amendment

No provision.

Conference agreement

The conference agreement adopts the House provision, with a technical amendment.

The conferees agreement would require the use of a single claim form that incorporates sections for claims for all meals served. At its simplest, this would mean adding sections from each current form to a single form.

The conferees believe that the consolidated agreements and single claim forms in the bill allow additional flexibility for States and school districts. States may consolidate program accountability reviews where schools also operate the Child and Adult Care Food Program. Further, where a school's food service operations, including its Summer Food Service Program operations, are managed by the same personnel, States need not conduct a review of the school's summer program in the same year in which its school food service operations have been reviewed and determined to be satisfactory. This will result in savings at the State level in that State agency staff will be able to coordinate reviews among programs. States may conduct additional reviews as necessary where there is a concern about compliance or for new sponsors, as current law provides.

School districts could operate all programs under the same meal pattern requirements. Schools would also have the same menu planning options for the Summer Food Service Program that school meals enjoy. This simplifies the menu planning process and maintains consistency among programs. It also simplifies program oversight at the State level.

5. COMMON CLAIMING PROCEDURES

Present law

No provision.

House bill

Requires common reimbursement claiming procedures for meals and supplements served in school meal programs, summer programs, and child and adult care food programs—to the extent that a single state agency administers the programs involved. [Sec. 102(b)]

Senate amendment

No provision.

Conference agreement

The conference agreement adopts the House provision with a technical amendment.

6. ADMINISTRATION OF CHILD NUTRITION PROGRAMS BY FEDERAL REGIONAL OFFICES

Present law

The Secretary is required to administer NSLA and CNA programs, other than the WIC program—i.e., withhold and administer funds due a state for federally administered programs—to the extent the Secretary has done so continuously since October 1980. If a state education agency is not permitted to pay funds to nonpublic schools, the Secretary must take over administration and payment for nonpublic schools. [Sec. 10 of the NSLA & Sec. 5 of the CNA.]

House bill

No provision.

Senate amendment

Ends the requirement that the Secretary administer NSLA and CNA programs—effective September 30, 2001. However, the Secretary may extend federal administration for up to 2 years if a state (1) demonstrates that it will not be able to take responsibility for the program involved and (2) submits a plan describing when and how it will assume administrative responsibility. Deletes the requirement that the Secretary take over administration for nonpublic schools. Requires the provision of training and technical assistance to states assuming administrative responsibility for NSLA/CNA programs. [Sec. 104 and Sec. 201]

Conference agreement

The conference agreement adopts the House position.

7. SCHOOLS' ELIGIBILITY UNDER "PROVISION 2"

Present law

"Provision 2" schools opt to serve free meals to all students for a 3-year period (without the normally required annual family income eligibility determinations) and are responsible for any extra costs. State agencies may extend this term by 2 years if socio-economic data show that the school's family income profile has remained stable. After a 2-year extension, subsequent extensions of 5 years each may be allowed if the school's family income profile has remained stable. [Sec. 11(a)(1) of the NSLA]

House bill

Requires that "provision 2" schools be eligible for an initial 4-year period, with added 4-year extensions if socio-economic data show that the school's family income profile has remained stable. [Sec. 103(a)]

Senate amendment

Same as the House bill. [Sec. 105]

Conference agreement

The conference agreement follows the House bill and the Senate amendment, with an amendment directing the provision of

grants to states to help schools seeking to apply for provision 2 or provision 3 status.

The conferees change the initial and extension periods to 4 years each for “provision 2 schools.” The new time frames are applicable for schools upon initial application and, for those schools already utilizing this provision, upon application for extension.

8. ROUNDING ADJUSTMENTS TO FEDERAL PAYMENT RATES

Present law

When annual inflation adjustments are made to federal payment rates for meals and snacks served under school meal programs and by day care centers under the CACFP, the resultant rates for free and reduced-price meals/snacks served to lower-income children are rounded to the nearest quarter cent. Inflation-adjusted rates for “full-price” meals/snacks are rounded down to the nearest whole cent. [Sec. 11(a)(3) of the NSLA]

House bill

Requires that, when annual inflation adjustments are made to federal payment rates for meals and snacks served under school meal programs and by day care centers under the CACFP, all resultant rates be rounded down to the nearest whole cent. This new rounding rule would affect rates paid beginning May 1, 1999. [Sec. 103(b)]

Senate amendment

Same as the House bill, with technical differences. [Sec. 106]

Conference agreement

The conference agreement follows the House bill with an amendment to change the effective date to July 1, 1999.

The Conference Committee intends that, under this section, reimbursements for all breakfasts, including severe need breakfasts, will, when adjusted for inflation, be rounded down to the nearest whole cent.

9. FEDERAL PAYMENT RATES UNDER THE SUMMER FOOD SERVICE PROGRAM FOR ALASKA, HAWAII, AND OUTLYING AREAS

Present law

Federal payment rates for meals/snacks served under the Summer Food Service program may not be varied for Alaska, Hawaii, and outlying areas. Rates for meals/snacks served under other child nutrition programs may be varied for Alaska, Hawaii, and outlying areas to reflect cost differences. [Sec. 12(f) of the NSLA]

House bill

Permits the Secretary to vary payment rates under the Summer Food Service program for Alaska, Hawaii, and outlying areas to reflect cost differences. [Sec. 104(a)]

Senate amendment

Same as the House bill, with technical differences. [Sec. 107]

Conference agreement

The conference agreement adopts the Senate provision with technical amendments.

10. CRIMINAL PENALTIES

Present law

Federal fines that may be imposed on those found to have embezzled, willfully misapplied, stolen, or obtained by fraud funds, assets, or property subject to a grant or other form of assistance under the NSLA or the CNA are limited to \$10,000 (where the value is \$100 or more). [Sec. 12(g) of the NSLA]

House bill

Increases the limit on fines imposed for WIC program violations to \$25,000. [Sec. 202(s)]

Senate amendment

Increases the limit on fines for all NSLA and CNA violations to \$25,000. [Sec. 108]

Conference agreement

The conference agreement adopts the Senate provision.

11. GRANTS FOR FOOD AND NUTRITION CURRICULA INTEGRATION PROJECTS

Present law

Grants in support of projects that integrate food and nutrition education into elementary school curricula are authorized through FY1998. [Sec. 12(m) of the NSLA]

House bill

No provision.

Senate amendment

Extends authority for grants for food and nutrition curricula integration projects through FY2003. [Sec. 109]

Conference agreement

The conference agreement adopts the Senate provision.

12. ADEQUATE MEAL SERVICE PERIODS

Present law

No provision.

House bill

No provision.

Senate amendment

Provides that schools participating in federal school meal programs are encouraged to establish meal service periods that provide children with adequate time to fully consume meals in a conducive environment. [Sec. 110]

Conference agreement

The conference agreement adopts the House position.

The Conference Committee believes that the benefits derived from meals provided in schools depend to a considerable extent on the environment in which they are provided and consumed, and that school administrators and the entire school community play an essential role in assuring that children receive the full benefit of such meals. Accordingly, the conferees call on the Secretary to encourage schools to make every effort to establish meal service periods that provide children adequate time to fully consume their meals and to provide an environment conducive to eating those meals.

13. BUY AMERICAN PROVISION

Present law

No provision.

House bill

Requires that schools located in the contiguous U.S. and participating in school meal programs purchase—to the extent practicable—only “food products that are produced in the United States.” “Food products that are produced in the United States” are defined as: (1) unmanufactured food products grown or produced in the U.S. and (2) food products that are manufactured in the U.S. substantially from agricultural products grown or produced in the U.S. Also requires that “recipient agencies” in Hawaii purchase food products grown in Hawaii in sufficient quantities to meet school meal program needs. [Sec. 104(b)]

Senate amendment

Same as the House bill—except for (1) technical differences and (2) the House provision requiring purchases of foods grown in Hawaii. [Sec. 111]

Conference agreement

The conference agreement adopts the House provision with a technical amendment.

The conferees bill incorporates language similar to that proposed by the U.S. Department of Agriculture which requires schools in the contiguous States participating in the National School Lunch and Breakfast Programs to purchase, whenever possible, only food products that are produced in the United States for those programs.

Although Hawaii is exempt from “Buy American” provisions, the bill eliminates this exemption with respect to food products that are produced in Hawaii in sufficient quantities to meet the needs of meals provided under the school lunch and breakfast programs.

Finally, the bill includes a definition of “food products that are produced in the United States.” The conferees included this definition for a variety of reasons. First, the conferees determined it was important to assist local schools in determining which products qualify under this new requirement. Second, the conferees believe

it is important to make sure that “food products that are produced in the United States” means products are produced “substantially” from agricultural products grown in the United States. Under the “Buy American Act” substantially means over 51 percent from American products. However, the Department of Agriculture has been using a definition of “food products that are produced in the United States” that includes products which are canned and labeled in the United States, but may have 100 percent foreign ingredients. By adding this definition, the bill serves both the needs of schools that purchase these products and American agriculture.

The conferees do not intend to specify how this provision will be implemented by individual schools nor do the conferees expect the Secretary to issue regulations or guidance to schools specifying how this provision will be implemented.

14. PROCUREMENT CONTRACTS

Present law

No provision.

House bill

No provision.

Senate amendment

When acquiring goods/services using NSLA/CNA funds, allows states, state agencies, and schools to contract with those who have provided assistance in drafting the contract specifications. [Sec. 112]

Conference agreement

The conference agreement adopts the Senate provision with an amendment to limit permission to award contracts to persons who have provided specification information and to clarify that this provision does not apply to the WIC program.

The Conference Committee intends for this provision to encourage Child Nutrition program administrators to obtain information from as many sources as possible. This provision is not intended to prevent a program from participating in group purchasing arrangements or prevent program administrators from, where permitted, forming purchasing cooperatives. This provision is not intended to allow a potential contractor or other interested party to participate in the procurement process through drafting the procurement specification, procedures or documents.

In addressing the procurement actions by a school food service authorities or other subgrantees, the conferees expect the Department to implement its responsibilities, in its pending rulemaking and administration of program authorities with generous deference to the discretion of State and local authorities especially when dealing with State and local procurement laws and regulations. State and local authorities, not the federal government bear responsibility for the cost of such subgrantee procurements. The conferees expect the Secretary to implement procurement rules to allow purchase of locally produced products to the extent practicable.

The Conferees are especially concerned that no situation arise in which federal authorities require State or local school food service authorities to issue Requests for Proposals in such a prescriptive form as to inhibit innovation that might improve service or reduce costs for the local school food service authority. Similarly, the Conferees expect the Department to assure that it exercises all the flexibility available to it in order to avoid unnecessary expense to school districts when they implement federal requirements.

The great success of the National School Lunch and Breakfast Programs is primarily due to the interwoven responsibilities for, and commitment to, the mission of those programs by federal, State, and local authorities. Through its oversight functions, Congress intends to assure that federal program responsibilities are executed in a manner that respects the role of State and local food service authorities. The Department should be prepared to promptly and fully account to the Committees of jurisdiction for each instance in which federal authorities address a matter of a subgrantee procurement.

15. SUMMER FOOD SERVICE PROGRAM: LIMITS ON THE NUMBER OF SITES AND CHILDREN SERVED BY PRIVATE NONPROFIT ORGANIZATIONS

Present law

Private nonprofit Summer Food Service program sponsors are limited to five urban sites and 20 rural sites. They also are limited to serving not more than a total of 2,500 children (with not more than 300 at any one site, unless a waiver is granted to serve up to 500 children). [Sec. 13(a)(7)(B) of the NSLA]

House bill

Increases the limit on sites operated by private nonprofit sponsors to 25 (with no variation between urban and rural sites). Eliminates the limit (2,500) on the total number of children served by a private nonprofit sponsor. Retains per-site limits on the number of children served by a private nonprofit sponsor (300, or 500 if a waiver is granted). [Sec. 105(a)]

Senate amendment

Same as the House bill, with technical differences. [Sec. 113(a)]

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

16. SUMMER FOOD SERVICE PROGRAM: MEAL PREPARATION BY PRIVATE NONPROFIT ORGANIZATIONS

ORGANIZATIONS

Present law

Private nonprofit Summer Food Service program sponsors must prepare their own meals/snacks or obtain meals/snacks from a public facility (e.g., a school). [Sec. 13(a)(7)(B) of the NSLA]

House bill

Eliminates the requirement that private nonprofit sponsors prepare their own meals/snacks or obtain meals/snacks from a public facility. [Sec. 105(a)]

Senate amendment

Same as the House bill, with technical differences. [Sec. 113(b)]

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

17. SUMMER FOOD SERVICE PROGRAM: “INDICATION OF INTEREST”
REQUIREMENT FOR PRIVATE NONPROFIT ORGANIZATIONS

Present law

Private nonprofit Summer Food Service program sponsors are only allowed to participate in areas where school or other public sponsors have not indicated an interest in running a summer program by March 1st of each year. [Sec. 13(a)(7)(B) of the NSLA]

House bill

Eliminates the March 1st “indication of interest” requirement for private nonprofit sponsors. [Sec. 105(a)]

Senate amendment

Same as the House bill. [Sec. 113(b)]

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

18. SUMMER FOOD SERVICE PROGRAM: “OFFER VS. SERVE”
RESTRICTIONS

Present law

School food authorities participating in the Summer Food Service program may permit children *attending a site on school premises operated directly by the authority* to refuse one or more meal items without affecting federal payments made for the meal. [Sec. 13(f)(7) of the NSLA]

House bill

Allows school food authorities sponsoring summer programs to permit children to refuse one or more meal items without affecting federal payment—without regard to whether they are attending a site on school premises operated directly by the authority. [Sec. 105(b)]

Senate amendment

No provision.

Conference agreement

The conference agreement adopts the House provision.

19. SUMMER FOOD SERVICE PROGRAM: USE OF FOOD SERVICE
MANAGEMENT COMPANIES

Present law

Private nonprofit Summer Food Service program sponsors may not contract with food service management companies. [Sec. 13(l) of the NSLA]

House bill

Eliminates the bar against private nonprofit sponsors contracting with food service management companies. [Sec. 105(c)]

Senate amendment

Same as the House bill. [Sec. 113(b)]

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

20. SUMMER FOOD SERVICE PROGRAM: REGISTRATION OF FOOD
SERVICE MANAGEMENT COMPANIES

Present law

States are *required* to register food service management companies that wish to contract with Summer Food Service program sponsors. Registration must include: (1) certification that the company meets health, safety, and sanitation standards, (2) disclosure of past and present owners, (3) records of contract terminations or disallowances and sanitary code violations, and (4) addresses of the company's food preparation sites. Companies cannot be registered if they lack administrative/financial capability or have been seriously deficient in their participation in the program. The Secretary is required to maintain a record of all registered companies. [Sec. 13(l) of the NSLA]

House bill

Allows states to register food service management companies. Eliminates current-law stipulations as to what registration must include. Eliminates the current-law requirement that the Secretary maintain a list of registered companies. [Sec. 105(c)]

Senate amendment

Same as the House bill. [Sec. 113(b)]

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

21. SUMMER FOOD SERVICE PROGRAM: REAUTHORIZATION

Present law

Appropriations for the Summer Food Service program are authorized through FY1998. [Sec. 13(q) of the NSLA]

House bill

Extends the appropriations authorization through FY2003. [Sec. 105(d)]

Senate amendment

Same as the House bill. [Sec. 113(c)]

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

The conferees intend that the removal of barriers to participation by private non-profit sponsors will increase access of low income children to nutritious meals during the summer months when they are not in school. However, because of past problems, the Committees of jurisdiction will closely monitor the performance of private non-profit sponsors once these restrictions have been removed. Should past abuses be repeated, the Committees will move swiftly to reinstate these barriers.

22. COMMODITY DISTRIBUTION: REAUTHORIZATION

Present law

The Secretary is required to use permanently appropriated funds available under "Section 32" of the Act of August 24, 1935, and funds available to the Commodity Credit Corporation (CCC) to purchase agricultural commodities needed to maintain annually programmed levels of commodity assistance for programs under the NSLA, the CNA, and the Older Americans Act. This requirement expires at the end of FY1998. [Sec. 14(a) of the NSLA]

House bill

Extends the requirement to use Section 32 and CCC funds to maintain commodity assistance levels through FY2003. [Sec. 108]

Senate amendment

Same as the House bill. [Sec. 114]

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

23. CHILD AND ADULT CARE FOOD PROGRAM: LICENSING OF CENTERS

Present law

CACFP centers must have federal, state, or local licensing or approval (or be complying with appropriate licensing/approval renewal procedures). Where federal, state, or local licensing/ approval is not available, centers may participate in the CACFP if they receive funds under Title XX of the Social Security Act or otherwise demonstrate that they meet alternate licensing/approval standards. [Sec. 17(a)(1) of the NSLA]

House bill

Revises licensing/approval conditions for CACFP centers by (1) removing requirements that schools operating programs under the CACFP meet any child care licensing/approval standards, (2) allowing institutions that—are (a) located where federal, state, or local licensing/approval is not required and (b) provide care to school children outside of school hours—to participate in the CACFP as long as the institution meets state and local health and safety standards. Also deletes permission to participate in the CACFP under licensing/approval requirements if the center receives Title XX funds. [Sec. 107(a)]

Senate amendment

Same as the House bill, except that the permission to participate if a center receives Title XX funds is retained. [Sec. 115(b)]

Conference agreement

The conference agreement adopts the House provision.

The Conference Committee does not intend to disqualify any institution which originally qualified under Title XX of the Social Security Act.

24. CHILD AND ADULT CARE FOOD PROGRAM: ELIGIBILITY OF EVEN
START PARTICIPANTS

Present law

Children who have not entered kindergarten and are enrolled as participants in the Even Start program must be considered automatically (“categorically”) eligible for “benefits” under the CACFP. This requirement expired September 30, 1997. [Sec. 17(c)(6) of the NSLA]

House bill

Extends automatic CACFP eligibility for Even Start participants through FY2003. [Sec. 107(b)]

Senate amendment

Deletes provisions for automatic CACFP eligibility for Even Start participants. [Sec. 115(c)]

Conference agreement

The conference agreement adopts the House provision with an amendment to make the automatic eligibility of Even Start participants permanent.

The conferees note that participants in the Even Start family literacy program generally have lower family incomes than those families participating in the Head Start program. Providing automatic eligibility for the children of these families places them on an equal footing with Head Start participants.

25. CHILD AND ADULT CARE FOOD PROGRAM: SITE VISITS

Present law

No provision.

House bill

No provision.

Senate amendment

Requires state agencies to perform a site visit to private institutions prior to approval for the CACFP. Also requires state agencies to conduct periodic site visits to private institutions in the CACFP that the agency determines to have a high probability of program abuse. [Sec. 115(d)]

Conference agreement

The conference agreement adopts the Senate provision.

26. CHILD AND ADULT CARE FOOD PROGRAM: TAX EXEMPT STATUS

Present law

Private institutions that are “moving toward compliance” with requirements for tax exempt status may participate in the CACFP. No time limit is placed on how long the institution can be “moving toward compliance.” [Sec. 17(d)(1) of the NSLA]

House bill

Permits a private institution moving toward compliance with requirements for tax exempt status to participate in the CACFP for not more than 6 months, unless it can demonstrate that its inability to obtain tax exempt status is beyond its control—in which case the state agency may grant a single extension not to exceed 90 days. [Sec. 107(c)]

Senate amendment

Same as the House bill, with technical differences. [Sec. 115(e)]

Conference agreement

The conference agreement adopts the Senate provision.

27. CHILD AND ADULT CARE FOOD PROGRAM: INCOMPLETE
APPLICATION NOTICE*Present law*

If an institution wishing to participate in the CACFP submits an incomplete application, the state agency must notify it within 15 days of receipt of the application. [Sec. 17(d)(1) of the NSLA]

House bill

Deletes the incomplete application notification requirement. [Sec. 107(c)]

Senate amendment

Same as the House bill. [Sec. 115(e)]

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

The conferees understand that an institution must have feedback from the State as to whether the application is complete. Therefore, the conferees encourage State agencies to respond to institutions, in a timely fashion, as to the completeness of an application.

28. CHILD AND ADULT CARE FOOD PROGRAM: SET-ASIDE OF FUNDING FOR AUDITS

Present law

The Secretary is required to make available to states 2% of CACFP funds for the purpose of conducting audits of participating institutions. [Sec. 17(i) of the NSLA]

House bill

Reduces the set-aside of CACFP funding for audits from 2% to 1%. [Sec. 107(d)]

Senate amendment

No provision.

Conference agreement

The conference agreement adopts the House provision with an amendment to reduce the set-aside for audit to 1.5%, and to 1% in 2005 through 2007 only.

The Conference Committee included the 2005 through 2007 change in the set aside only for the purpose of complying with budget rules. It is the intention of the conferees that the audit funds be restored before the 2005 deadline.

29. CHILD AND ADULT CARE FOOD PROGRAM: FOR-PROFIT CENTER DEMONSTRATION PROJECTS

Present law

Two statewide demonstration projects are authorized under which for-profit organizations may participate in the CACFP if at least 25% of the children enrolled (or 25% of licensed capacity) meet eligibility requirements for free or reduced-price meals. These projects operate in Iowa and Kentucky, and authorization expires at the end of FY1998. [Sec. 17(p) of the NSLA]

House bill

Makes permanent (and clarifies that funding is mandatory for) the two-state, for-profit CACFP demonstration project. [Sec. 107(e)]

Senate amendment

Extends the two-state, for-profit CACFP demonstration project through FY 2003, and clarifies that funding for the project is mandatory. [Sec. 115(f)]

Conference agreement

The conference agreement adopts the House provision.

30. CHILD AND ADULT CARE FOOD PROGRAM: PROGRAMS FOR
HOMELESS CHILDREN

Present law

Under the Homeless Children Nutrition program, public and private nonprofit entities selected by the Secretary receive payments for free food service provided to children under age 6 in emergency shelters. In addition, eligible summer program sponsors can include those conducting regularly scheduled food service primarily for homeless children (age 18 or under or who are handicapped of any age). [Sec. 17B and sec. 13(a)(3) of the NSLA]

House bill

Deletes current-law provisions for payments for food service to homeless children. Replaces current-law provisions with authority for public and private nonprofit emergency homeless shelters meeting state or local health and safety standards to participate in the CACFP. Free meals and snacks would be provided to homeless children residing in participating shelters—through age 12. Payments (at free meal/snack rates) would be provided for three meals or two meals and a snack per child per day. [Sec. 107(f) & sec. 201(a)]

Senate amendment

Same as the House bill, with technical differences. [Sec. 116 and Sec. 202(a)]

Conference agreement

The conference adopts the Senate bill with an amendment to include children older than 12 if they are migrants or disabled.

31. CHILD AND ADULT CARE FOOD PROGRAM: MANAGEMENT SUPPORT

Present law

No provision.

House bill

No provision.

Senate amendment

Requires the Secretary to provide training and technical assistance to help state agencies improve CACFP program management and oversight. To carry out this provision, requires that, for FY 1999 through FY 2003, the Secretary reserve \$1 million a year from amounts made available for the CACFP. [Sec. 115(g)]

Conference agreement

The conference agreement adopts the Senate provision.

The Department is to use the training and technical assistance funding provided under the Child and Adult Care Food Program in support of its current effort to improve program integrity and quality and to deal with the increasing incidence of mismanagement and fraud identified in the program. In addition, it is to be used to help ensure proper implementation of the family day care home tiering requirements. It is critical that this most significant change

in Program structure is fully understood and properly implemented at all levels of Program administration and that barriers to implementation are identified and rectified. Specific uses of the funding are to include development of technical assistance materials for program cooperators and training of State agencies.

32. CHILD AND ADULT CARE FOOD PROGRAM: INFORMATION ABOUT THE WIC PROGRAM

Present law

No provision.

House bill

No provision.

Senate amendment

Requires the Secretary to provide state CACFP agencies with information about the WIC program. States agencies must ensure that participating day care centers and homes receive the materials, that they are provided periodic updates, and that parents are provided the information at enrollment. [Sec. 115(g)]

Conference agreement

The conference agreement adopts the Senate provision.

33. CHILD AND ADULT CARE FOOD PROGRAM: PROGRAMS FOR "AT-RISK" CHILDREN

Present law

No provision.

House bill

Allows institutions (schools and other public or private non-profit organizations) that provide care to "at-risk" schoolchildren during after-school hours, weekends, or holidays in the regular school year to receive CACFP payments for snacks (one per child per day) served free to participating children. "At-risk" schoolchildren are defined as those ages 12 through 18 living in an area served by a school enrolling elementary students in which at least 50% are certified eligible for free or reduced-price school meals. [Sec. 107(g)]

Senate amendment

Same as the House bill, except for technical differences and: (1) participating institutions must be "organized primarily to provide care to at-risk schoolchildren"; (2) "at-risk" schoolchildren are defined so as to include those below age 12. [Sec. 115 (a) & (g)]

Conference agreement

The conference agreement adopts the Senate provision with an amendment requiring that assisted programs serve an educational or enrichment purpose.

The conferees include language requiring the after-school programs to provide education and enrichment for children. The inclusion of this language is meant to ensure that children receiving

this benefit are participating in a program that provides the types of activities known to help reduce or prevent involvement in juvenile crime. It is not expected that support would be provided to members of athletic teams and others who are not participating in such activities.

The Conference Committee intends that children who turn age 19 during the school year be eligible for reimbursement. The Committee encourages the Department to give guidance to states on this issue.

34. CHILDREN IN AFTER-SCHOOL CARE

Present law

Schools operating school lunch programs and sponsoring after-school care programs may receive payments (varied by family income) for snacks served to children through age 12 (or age 15 in the case of migrant or handicapped children). Only schools participating in the CACFP on May 15, 1989 are eligible. [Sec. 17A of the NSLA]

House bill

Removes the May 1989 participation requirement for schools' eligibility. Requires that eligible schools' after-school programs have an "educational or enrichment purpose." Allows payments (varied by family income) for snacks served to children through age 18. [Sec. 108]

Senate amendment

Same as the House bill, except: (1) requires that eligible programs be "organized primarily to provide care" for children in after-school settings; (2) retains current-law provisions (age limits and payments varied by family income) for children not living in a lower-income area; (3) provides payments for free snacks served to children (through age 18) who live in a lower-income area (i.e., served by a school enrolling elementary school students in which at least 50% are certified eligible for free or reduced-price school meals. [Sec. 117]

Conference agreement

The conference agreement adopts the Senate provision with an amendment to raise the age to 18 for means-tested snacks.

The inclusion of this language is meant to ensure that children receiving this benefit are participating in a program that provides the types of activities known to help reduce or prevent involvement in juvenile crime. It is not expected that support would be provided to members of athletic teams and others who are not participating in such activities.

The Conference Committee intends that children who turn age 19 during the school year continue to be eligible for reimbursement. The Committee encourages the Department to give guidance to states on this issue.

35. PILOT PROJECTS

Present law

A “boarder baby” pilot project for food and nutrition services to homeless pregnant women and homeless mothers or guardians of infants is required through FY1998. A pilot project to provide meals and snacks to adolescents participating in programs outside of school hours is authorized through FY1998. A pilot project to offer students additional choices of fruits, vegetables, cereals, and grain-based products (including organically produced products) was authorized through FY1997. A pilot project to offer students additional choices of low-fat dairy products and lean meat and poultry products (including organically produced products) was authorized through FY1997. [Sec. 18(c), (e), (h), & (i) of the NSLA]

House bill

No provisions.

Senate amendment

Extends the requirement to operate a “boarder baby” pilot project through FY2003. Deletes authority for a pilot project for adolescents in after-school programs. Deletes authority for a pilot project involving additional choices of fruits, vegetables, cereals, and grain-based products. Deletes authority for a pilot project involving additional choices of low-fat dairy products and lean meat and poultry products. [Sec. 118]

Conference agreement

The conference agreement adopts the Senate provision with an amendment to delete authority for the boarder baby pilot project.

36. SCHOOL BREAKFAST PILOT PROJECTS

Present law

Pilot projects are authorized to reduce paperwork and application and meal counting requirements in school meal programs and to make changes that will increase participation in school meal programs. This authority expired July 31, 1998. [Sec. 18(i) of the NSLA]

House bill

Replaces current-law authority for pilot projects to reduce paperwork and application and meal counting requirements and increase participation in school meal programs.

Establishes discretionary authority for pilot projects for free breakfasts served to all elementary school students in participating schools.

Subject to the availability of advance appropriations, requires the Secretary to make grants, to up to five states, to conduct pilot projects in elementary schools that would reduce paperwork, simplify meal counting requirements, and make changes that increase participation in the School Breakfast program.

On their application, the Secretary would select states for pilot project grants and could waive NSLA & CNA requirements that would preclude making grants to conduct projects.

The Secretary would be responsible, through the FNS, for an evaluation of the projects—including determining their effect on academic achievement, attendance, and dietary intake and the proportion of children who eat breakfast. An evaluation report is required on completion of the projects.

States would apply for pilot project grants and provide information relative to the operation and results of the pilots. States receiving a pilot project grant would select and make grants to school food authorities. In the selection of school food authorities, states would be required, to the extent practicable, to provide for an equitable distribution among urban and rural schools and schools with varying family income levels.

Participating school food authorities would (1) conduct a pilot project for 3 years, (2) ensure that some schools in their jurisdiction do not participate (for evaluation purposes), (3) agree to serve all breakfasts free to participating children, and (4) meet any other requirements established by the Secretary. School food authorities with a history of NSLA or CNA violations would be barred from participation.

Participating school food authorities would receive payments for each breakfast at the basic free rate, and also would receive commodities valued at 5 cents a meal (deducted from their cash payments).

The total amount received by a participating school would be funded with payments under the regular School Breakfast program equal to that in the prior year, adjusted for inflation and enrollment changes, plus amounts derived from any appropriations made to carry out the pilot project.

Such sums as are necessary are authorized to carry out the pilot projects, and amounts must be specifically provided in appropriations Acts. [Sec. 109]

Senate amendment

Deletes current-law authority for pilot projects to reduce paperwork and application and meal counting requirements and increase participation in school meal programs.

Requires the Secretary to make grants for pilot projects for free breakfasts served to all elementary school students in participating schools.

For school years 1999–2000, 2000–2001, and 2001–2002, requires the Secretary to make grants to state agencies to conduct pilot projects in elementary schools in up to six school food authorities that would reduce paperwork, simplify meal counting requirements, and evaluate the effect of providing free breakfasts (without regard to family income) on participation, academic achievement, attendance, and dietary intake.

State agencies would nominate school food authorities for the Secretary's approval as pilot projects.

The Secretary would approve school food authorities for participation and could waive NSLA & CNA requirements that would preclude making grants to conduct projects. Projects would be se-

lected so as to provide (1) an equitable distribution of projects among urban and rural schools, (2) an equitable distribution of projects among schools with varying family income levels, and (3) evaluation of projects to distinguish the effects of the projects from other factors (e.g., changes or differences in educational policies or programs).

The Secretary would be responsible, through the FNS, for an evaluation of the projects—including determining their effect on academic achievement, attendance, dietary intake, the proportion of children students who eat breakfast, and the paperwork required of schools. An evaluation report is required on completion of the projects.

States would apply for pilot project grants, distribute the grants, and provide information relative to the operation and results of the pilots.

Participating school food authorities would (1) conduct a pilot project for 3 years, (2) have under their jurisdiction a sufficient number of schools that are not participating in the project to permit evaluation, (3) agree to serve all breakfasts free to participating children, and (4) meet any other requirements established by the Secretary. School food authorities with a history of NSLA or CNA violations would be barred from participation.

Participating school food authorities would receive payments for each breakfast at the basic (or “severe-need”) rate for free breakfasts. The total amount received by a participating school would be funded with payments under the regular School Breakfast program equal to that in the prior year, adjusted for inflation and enrollment changes, plus amounts derived from the added mandatory funding provided for the pilot projects.

Funding of \$20 million is required to be provided for the pilot projects—not more than \$12 million of which would be available for evaluation purposes. [Sec. 119]

Conference agreement

The conference agreement adopts the Senate provision with technical difference and an amendment to fund the pilot out of discretionary funds.

37. TRAINING AND TECHNICAL ASSISTANCE

Present law

Appropriations of \$1 million a year are authorized for training activities and technical assistance to improve skills of those employed in food service programs under the NSLA and the CNA. This authorization expires at the end of FY1998. [Sec. 21(e)(1) of the NSLA]

House bill

Extends the appropriations authority for training and technical assistance through FY2003. [Sec. 110]

Senate amendment

Same as the House bill. [Sec. 120]

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

38. FOOD SERVICE MANAGEMENT INSTITUTE

Present law

Annual funding (\$2 million a year) is required to be provided for a national Food Service Management Institute. [Sec. 21(e)(2) of the NSLA]

House bill

No provision.

Senate amendment

Increases the mandatory annual funding for the Food Service Management Institute to \$3 million a year. [Sec. 121]

Conference agreement

The conference agreement adopts the Senate provision.

39. COMPLIANCE AND ACCOUNTABILITY

Present law

Appropriations of \$3 million a year are authorized for a “unified accountability system” (also called the “coordinated review effort,” or CRE) for ensuring compliance with the NSLA. This authorization expired at the end of FY1996. [Sec. 22 of the NSLA]

House bill

Extends the appropriations authorization for the unified accountability system (CRE) through FY2003. [Sec. 111]

Senate amendment

Same as the House bill. [Sec. 122]

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

40. INFORMATION CLEARINGHOUSE

Present law

The Secretary is required to contract with a non-governmental organization to establish and maintain an information clearinghouse for non-governmental groups that assist low-income persons and communities with regard to food assistance and self-help activities to improve the lives of low-income persons and reduce reliance on government agencies for food and other aid. Mandatory funding (\$100,000) ends with FY1998. [Sec. 26 of the NSLA]

House bill

Allows the Secretary to contract with any organization previously contracted with or without competition, if the organization has performed satisfactorily under the prior contract. Allows the

Secretary to provide a contracting organization up to \$150,000 a year through FY2003. Changes the requirement for mandatory funding to an authorization of appropriations. [Sec. 112]

Senate amendment

Increases and extends mandatory funding for the information clearinghouse contract to \$166,000 a year through FY2003. [Sec. 123]

Conference agreement

The conference agreement adopts the Senate provision.

41. SPECIAL DIETARY NEEDS OF INDIVIDUALS WITH DISABILITIES

Present law

The Secretary (in consultation with the Attorney General and the Secretary of Education) is required to develop and approve guidance for accommodating the medical and special dietary needs of disabled children in programs under the NSLA and the CNA. Subject to the availability of appropriations, the Secretary is required to make competitive grants to state agencies to assist with nonrecurring expenses incurred in accommodating the medical and special dietary needs of disabled children. Annual appropriations of \$1 million are authorized through FY1998. [Sec. 27 of the NSLA]

House bill

Replaces expiring current-law provisions with authority for the Secretary to carry out activities to help accommodate the special dietary needs of individuals with disabilities participating in programs under the NSLA and the CNA. The activities may include developing and disseminating guidance and technical assistance materials, conducting training, and providing grants. Authorizes appropriations (such sums as necessary) through FY2003. [Sec. 113]

Senate amendment

Same as the House bill, except for technical differences. No specific provision authorizing appropriations is included. [Sec. 124]

Conference agreement

The conference agreement adopts the House provision with technical amendments.

42. STATE ADMINISTRATIVE EXPENSE FUNDS: 10% TRANSFER
LIMITATION

Present law

Funds made available for state administrative expenses (including state administrative expense funding related to the Summer Food Service program) must be used for the cost of administering the programs for which the money was allocated. However, state agencies may transfer up to 10% of an allocation to other programs. [Sec. 7(a)(6) of the CNA]

House bill

Removes the 10% limit on transferring administrative expense funding among programs. State agencies would be able to use administrative expense funds without regard to the basis on which they were allocated. [Sec. 201(b)]

Senate amendment

Same as the House bill. [Sec. 202(b)]

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

43. STATE ADMINISTRATIVE EXPENSE FUNDS: REAUTHORIZATION

Present law

Appropriations for state administrative expenses are authorized through FY1998. [Sec. 7(g) of the CNA]

House bill

Extends the authorization of appropriations for state administrative expenses through FY2003. [Sec. 201(c)]

Senate amendment

Same as the House bill. [Sec. 202(c)]

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

44. THE WIC PROGRAM: CERTIFICATION PERIOD FOR INFANTS

Present law

No provision.

House bill

No provision.

Senate amendment

Requires that infants be certified, relative to income only, every 180 days. This requirement would not apply to those who are “presumptively” eligible because of receipt of public assistance benefits (e.g., food stamps, Medicaid). [Sec. 203(a)]

Conference agreement

The conference agreement adopts the House position.

45. THE WIC PROGRAM: PHYSICAL PRESENCE REQUIREMENT

Present law

No provision.

House bill

Requires that all applicants be physically present at each certification determination. Local agencies could waive this require-

ment: (1) where there is a conflict with the Americans with Disabilities Act, (2) if it would present a barrier to participation by a child who was present at the initial certification and is receiving ongoing health care from a non-WIC provider, or (3) if it would present a barrier to participation by a child who was present at the initial certification, was present at a certification determination in the last year, and has working parents. [Sec. 202(a)(1)]

Senate amendment

Same as the House bill, with technical differences. [Sec. 203(b)]

Conference agreement

The conference agreement adopts the House provision with a technical amendment.

Regarding the physical presence requirement, the Committee acknowledges that physical presence at the WIC clinic allows participants to fully take advantage of all the benefits offered through WIC. The WIC Program has played a critical role in increasing immunization rates among young children, primarily due to its role as a gateway to health services. Notwithstanding the importance of physical presence, the Committee wishes to stress that in implementing this provision, WIC agencies must develop flexible policies. Such policies should assure that medically fragile individuals are not required to come in to the clinic if doing so would exacerbate their illness. In addition, WIC agencies are encouraged to continue offering early morning and late evening appointments to accommodate the schedules of working parents. The conferees do not intend the waiver authority authorized in this section to be applied to two parent families with only one working parent.

46. THE WIC PROGRAM: INCOME DOCUMENTATION AND VERIFICATION

Present law

No provision.

House bill

Requires that all applicants provide documentation of household income or participation in a public assistance program. State agencies could waive this requirement: (1) for applicants for whom the necessary documentation is not available and (2) for applicants (such as homeless persons) for whom it would present a barrier to participation. The Secretary would be required to prescribe regulations to carry out the income documentation requirement. [Sec. 202(a)(2)]

Senate amendment

Same as the House bill except for technical differences and an added requirement that the Secretary issue regulations prescribing when and how verification of income will be required. [Sec. 203(b)]

Conference agreement

The conference agreement adopts the House provision with a technical amendment.

47. THE WIC PROGRAM: EDUCATION AND MATERIALS RELATING TO
DRUG AND ALCOHOL USE

Present law

State agencies must ensure that nutrition education and drug abuse education is provided to all pregnant, postpartum, and breast-feeding women and to parents and caretakers of infants and child participants. [Sec. 17(e)(1) of the CNA]

House bill

Adds a requirement that local agencies provide education or education materials relating to the effects of drug and alcohol use by pregnant, postpartum, or breast-feeding women on developing children. [Sec. 202(b)]

Senate amendment

No provision.

Conference agreement

The conference agreement adopts the House provision.

48. THE WIC PROGRAM: DISTRIBUTION OF NUTRITION EDUCATION
MATERIALS

Present law

No provision.

House bill

Permits the Secretary to provide, in bulk quantity, nutrition education materials developed under the WIC program to state agencies administering the Commodity Supplemental Food program—at no cost to that program. [Sec. 202(c)]

Senate amendment

Same as the House bill, with technical differences. [Sec. 203(c)]

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

The Committee intends that these materials come from already existing materials.

49. THE WIC PROGRAM: VARIETY OF FOODS REQUIREMENT

Present law

No provision.

House bill

No provision.

Senate amendment

Requires states using a retail purchase system to develop a plan to limit participation by stores to those that offer a variety of foods (as determined by the Secretary). [Sec. 203(d)]

Conference agreement

The conference agreement adopts the House position.

50. THE WIC PROGRAM: PARTICIPANTS AT MORE THAN ONE SITE

Present law

No provision.

House bill

Requires each state agency to implement a system designed to identify recipients who are participating at more than one site. [Sec. 202(d)]

Senate amendment

Same as the House bill with technical differences. [Sec. 203(f)]

Conference agreement

The conference agreement adopts Senate provision.

51. THE WIC PROGRAM: HIGH RISK VENDORS

Present law

No provision.

House bill

Requires each state agency to identify vendors that have a high probability of program abuse and conduct compliance investigations of these vendors. Final regulations implementing this requirement would be due by March 1, 1999. [Sec. 202(e)]

Senate amendment

Same as the House bill, but does not include a deadline for final regulations. [Sec. 203(g)]

Conference agreement

The conference agreement adopts the House provision with an amendment to promulgate proposed rules by March 1, 1999 and final rules by March 1, 2000.

52. THE WIC PROGRAM: REAUTHORIZATION

Present law

Appropriations for the WIC program are authorized through FY1998. Funding for nutrition services and administration (NSA) must be allocated on the basis of a formula prescribed by the Secretary—through FY1998. [Sec. 17(g)(1) and Sec. 17(h)(2)(A) of the CNA]

House bill

Extends the appropriations authorization and the requirement for allocating NSA funds through FY2003. [Sec. 202(f) and Sec. 202(h)(1)]

Senate amendment

Same as the House bill, with technical differences. [Sec. 203(h)]

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

The Conference Committee recognizes that WIC helps to assure normal growth in children, reduces levels of anemia, increases immunization rates, provides better access to regular health care and improves diets. WIC blood work testing is an important factor in determining the health progress of children in the WIC program. WIC blood work testing is currently required at certification, which generally does not coincide with the usual schedule of well-child pediatric care visits. This results in enrollment and re-certification delays, duplicated testing and extra physical visits.

The Committee is concerned over the delay in publishing final regulations on the coordination of blood work requirements between the WIC schedule and the Center for Disease Control and Prevention's periodicity schedule. The Committee expects a final rule to be published no later than 6 months after the amendments made to the Child Nutrition Act of 1966 are enacted.

The Committee understands that the Department of Agriculture's Food and Nutrition Service, the WIC directors, the Center for Disease Control and Prevention's National Immunization Program and others have been working to collaboratively promote and support a coordinated strategic approach for linking pre-school immunization and WIC services on the Federal, State and local level. The Committee urges the Department, working with WIC directors, the CDC's National Immunization Program and others, to move expeditiously to complete this effort which should address certain areas of concern including: funding, methodologies, and valid measurements of process and outcome.

The Committee also recognizes the importance of addressing the ethnic and cultural eating patterns of WIC participants and strongly endorses the Department's current effort to provide guidelines to local agencies regarding food substitutions to accommodate ethnic and cultural eating patterns. Such guidelines should assure that the food substitutions will accommodate the supplemental nutritional needs of WIC participants. The Committee urges the Department to proceed expeditiously to complete its final guidelines regarding this matter.

The conferees are aware of the increasing amount of scientific evidence indicating the positive health benefits of fresh fruit and vegetable consumption. These benefits are already enjoyed by participants in the WIC Farmer's Market Nutrition program. Accordingly, the conferees encourage the Secretary to consider carefully, including fresh fruits and vegetables in the WIC food package.

53. THE WIC PROGRAM: PURCHASE OF BREAST PUMPS

Present Law

State agencies may use nutrition services and administration (NSA) funding to purchase breast-feeding aids, including breast pumps. [Sec. 17(h) of the CNA]

House bill

Beginning with FY2000, allows state agencies to use funding provided for food to purchase breast pumps. Includes a maintenance of effort provision requiring state agencies exercising the authority to purchase breast pumps with food funding to continue to spend, from NSA funds, at least the amount spent on breast pumps in the prior fiscal year. [Sec. 202(g)]

Senate amendment

Same as the House bill, with technical differences. [Sec. 203(i)]

Conference agreement

The Conference agreement adopts the House provision with an amendment to delete the maintenance of effort provision.

54. THE WIC PROGRAM: TECHNICAL AMENDMENTS

Present Law

Current law includes a cross-reference to “subparagraph (I)(v),” which no longer exists. Current law includes provisions relating to payments for breast-feeding support activities that were effective only for FY1995 and FY1996. [Sec. 17(h)(2)(A)(iv) and Sec. 17(h)(3) of the CNA]

House bill

No provision.

Senate amendment

Deletes out-of-date references and provisions. [Sec. 203(j) and Sec. 203(l)]

Conference agreement

The conference agreement adopts the Senate provision.

55. THE WIC PROGRAM: LEVEL OF PER-PARTICIPANT EXPENDITURES ON NUTRITION SERVICES AND ADMINISTRATION

Present Law

The Secretary may reduce a state agency’s nutrition services and administration (NSA) funding if its actual NSA expenditures exceed its per-participant NSA grant by more than 15%. [Sec. 17(h)(2)(B)(ii) of the CNA]

House bill

Reduces the threshold above which the Secretary may reduce a state agency’s NSA funding from 15% to 10% (except that the Secretary may establish a higher percentage for small agencies). [Sec. 202(h)(2)]

Senate amendment

Same as the House bill. [Sec. 203(k)]

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

Among the factors which influence small state agency levels of per participant expenditures are a much smaller caseload base affecting a small state's ability to absorb unanticipated changes such as the impact of welfare reform and other public policies, changes in infant formula rebates and other cost-containment initiatives, and retail industry food price wars. Staffing resources in small states are limited such that small state agencies cannot proportionately reduce administrative costs to the same extent as larger state agencies in the event of fluctuations in the participant base.

When considering criteria for the establishment of a higher percentage for small state agencies for the level of per participant expenditures, the conferees direct the Secretary to consider the special and unique circumstances affecting the delivery of services to participants in programs administered by small State WIC agencies and Indian and Native American State WIC agencies. The Secretary should work closely with these agencies in establishing a percentage for the level of per participant expenditures.

56. THE WIC PROGRAM: CONVERSION OF FOOD FUNDING TO NUTRITION SERVICES AND ADMINISTRATION

Present Law

State agencies that achieve, through acceptable measures, participation that exceeds the Secretary's estimate may convert funding provided for food to use for nutrition services and administration (NSA). [Sec. 17(h)(5)]

House bill

Allows state agencies that submit a plan to reduce average food costs per recipient and increase participation above the level estimated for the state agency by the Secretary to convert funding provided for food to use for NSA—with the Secretary's approval. This removes the requirement that the state agency achieve a participation increase above the estimated level in order to earn the right to convert funds. [Sec 202(i)]

Senate amendment

Same as the House bill. [Sec. 203(m)]

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

57. THE WIC PROGRAM: INFANT FORMULA PROCUREMENT

Present law

No provision.

House bill

Requires state agencies to offer infant formula rebate contracts to the bidder offering the lowest net price, unless the state agency

demonstrates to the satisfaction of the Secretary that the weighted average retail price for different brands of formula in the state does not vary by more than 5%. [Sec. 202(j)]

Senate amendment

Same as the House bill, except for an added provision that requires the Secretary, prior to the issuance of infant formula contract solicitations, to (1) review the solicitation to ensure that it does not contain any anti-competitive provisions and (2) approve the solicitation only if it contains no anti-competitive provisions. [Sec. 203(n)]

Conference agreement

The conference agreement adopts the House provision.

The conferees are greatly concerned over the recent spate of protests and lawsuits that have been initiated following the award by the States of the competitively bid infant formula contracts. These protests threaten the substantial savings the WIC program has realized through infant formula rebates and can impose unwarranted litigation costs on the States. These added costs and increased resource burdens on the States reportedly have caused a number of States to avoid requesting new competitive bids for infant formula and simply renew existing contracts even though substantial savings could be achieved by requesting new bids. Although the Senate bill language was not included in the conference report, the conferees expect that the Department will continue to fully utilize its existing authority to review infant formula bid solicitations for the purpose of avoiding inclusion of anti-competitive provisions in solicitations.

58. THE WIC PROGRAM: INFRASTRUCTURE AND BREAST-FEEDING
SUPPORT AND PROMOTION FUNDING

Present law

The Secretary is required to use up to \$10 million a year of nutrition services and administration (NSA) funding that was not obligated in the prior year for special infrastructure and breast-feeding support and promotion projects. The requirement expires after FY1998. [Sec. 17(h)(10) of the CNA]

House bill

Extends the requirement to use up to \$10 million a year in unobligated NSA money for special infrastructure and breast-feeding support and promotion projects through FY2003. [Sec. 202(k)]

Senate amendment

Same as the House bill. [Sec. 203(o)]

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

59. THE WIC PROGRAM: CONSIDERATION OF PRICE LEVELS

Present law

No provision.

House bill

Requires state agencies to consider, in selecting approved retail stores, the prices the store charges for WIC items compared to other stores' prices. Also requires state agencies to establish procedures to ensure that selected stores do not subsequently raise prices to levels that would make them ineligible. Final regulations to carry out this new requirement would be due by March 1, 1999. [Sec. 202(l)]

Senate amendment

No provision.

Conference agreement

The conference agreement adopts the House provision with an amendment to promulgate proposed rules by March 1, 1999 and final rules by March 1, 2000.

60. THE WIC PROGRAM: MANAGEMENT INFORMATION SYSTEMS

Present law

No provision.

House bill

Requires the Secretary to establish a long-range plan for developing and implementing management information systems (including electronic benefit transfer systems)—in consultation with state agencies, retailers, and other interested parties. A report to Congress on actions taken to carry out this requirement would be due not later than 2 years from enactment. Prior to submission of the report to Congress, the cost of systems or equipment required to test systems (including electronic benefit transfer systems) could not be imposed on retail food stores. [Sec. 202(m)]

Senate amendment

Same as the House bill. [Sec. 203(p)]

Conference agreement

The conference agreement adopts the Senate provision with a technical amendment.

The Conference Committee understands that many WIC participants live on the border between two states and may shop in both States. It is the intent of the Committee that the Secretary, in consultation with other interested parties, develop operating rules that permit interoperability among states.

61. THE WIC PROGRAM: USE OF FUNDS IN PRECEDING AND
SUBSEQUENT FISCAL YEARS

Present law

State agencies may retain and “spend back” up to 1% of a given year’s food grant to cover food costs incurred in the preceding fiscal year.

State agencies may retain and “spend forward” up to 1% of a given year’s total grant for costs incurred in the subsequent fiscal year. In addition, States achieving cost containment savings may retain and spend forward up to 5% of the amount of their food grant in the year the savings were achieved and 3% for the second year. [Sec. 17(i)(3) of the CNA]

The Secretary is required to use up to \$10 million a year of unobligated NSA funding for special infrastructure and breast-feeding support and promotion projects. [Sec. 17(h)(10) of the CNA]

House bill

Increases state agencies’ authority to spend back funding by allowing them to spend back up to 1% of their nutrition services and administration (NSA) grant to cover NSA costs incurred in the preceding fiscal year.

Replaces current spend-forward provisions. Allows state agencies to retain and spend forward NSA funding (for NSA costs incurred in the subsequent fiscal year) up to an amount equal to 1% of their total grant. In addition, state agencies could spend forward, from NSA funding, up to an amount equal to 1/2% of their total grant for development of management information systems (including electronic benefit transfer systems) in the subsequent fiscal year.

Allows the Secretary to use unobligated food funds to meet the spending requirement for infrastructure and breast-feeding projects—in addition to unobligated NSA funds. [Sec. 202(n)]

Senate amendment

Same as the House bill, except that NSA money spent back could be used to cover either food or NSA costs. [Sec. 203(q)]

Conference agreement

The conference agreement adopts the Senate provision.

The Committee understands that States are anxious to begin implementing these provisions and therefore, directs the Secretary to issue interim rules within 120 days of the enactment of this Act.

62. THE WIC PROGRAM: DISQUALIFICATION OF VENDORS

Present law

No provision.

House bill

Requires state agencies to permanently disqualify WIC vendors convicted of trafficking in food instruments or selling firearms, ammunition, explosives, or controlled substances for food instruments.

The disqualification would be effective on receipt of the notice of disqualification, and the vendor would not be entitled to compensation lost as a result of the disqualification. A state agency would be permitted to waive disqualification if it determines (according to criteria set by the Secretary) that disqualification would cause a hardship for WIC participants. In the case of a waiver, the agency would be required to assess a civil money penalty on the vendor—in an amount determined according to criteria set by the Secretary.

Final regulations implementing these new requirements (including hardship and money penalty criteria) would be due by March 1, 1999. Sec. 202(p)]

Senate amendment

Same as the House bill, except: (1) state agencies could waive disqualification if—the vendor had an “effective policy and program” to prevent violations and the ownership was not aware of, did not approve of, did not benefit from, and was not involved in the conduct of the violation. (2) civil money penalties imposed in lieu of disqualification would be limited to \$20,000 per violation (\$40,000 for all violations investigated as part of a single investigation). The new vendor disqualification requirements would take effect on the date the Secretary issues final regulations that include criteria for making hardship determinations and determining civil money penalties. [Sec. 203(s)]

Conference agreement

The conference agreement adopts the Senate provision with technical amendments and amendments to lower the per violation penalty, and to require the promulgation of proposed rules by March 1, 1999 and final rules by March 1, 2000.

Regarding the exception in lieu of disqualification of a WIC vendor, the Committee wishes to stress that it is not the intent of this provision to permit a vendor who has had repeated convictions for WIC offenses to receive a waiver simply because the ownership of the vendor was not aware of, did not approve of, or was not involved in the offenses. The Committee expects the State agency to take the strongest possible action against each vendor who has been repeatedly convicted of trafficking or illegal sales of WIC food instruments.

63. THE WIC PROGRAM: USE OF RECOVERIES FROM VENDORS AND PARTICIPANTS

Present law

State agencies may use funds, for program purposes, recovered as the result of violations in the food delivery system of the program in the year in which the funds are collected. [Sec. 17(f)(21) of the CNA]

House bill

Adds a provision allowing state agencies to use amounts collected from vendors and recipients relating to fraud and abuse violations of the program to be used for program purposes during the

1 year period beginning on the date the amount is received. [Sec. 202(s)]

Senate amendment

Replaces the current-law provision with a provision allowing state agencies to use funds recovered from vendors and participants as the result of a claim arising under the program during: the fiscal year in which the claim arises, the fiscal year in which funds are collected, or the fiscal year following the fiscal year the funds were collected. [Sec. 203(e)]

Conference agreement

The conference agreement adopts the Senate provision with a technical amendment.

64. THE WIC PROGRAM: CRIMINAL FORFEITURE

Present law

No provision.

House bill

Requires a court to order a person convicted of an offense in violation of any provision of WIC law or regulations to forfeit to the United States all real and personal property used in the transaction. No interest in property would be forfeited where the owner establishes lack of knowledge or consent. Proceeds from any sale of forfeited property and any money forfeited would be used to first reimburse the Justice Department for costs incurred, second reimburse the Agriculture Department's Office of Inspector General for costs incurred, third reimburse any federal or state law enforcement agency for costs incurred, and fourth by the state agency to carry out approval, reauthorization, and compliance investigations of vendors. [Sec. 202(t)]

Senate amendment

Same as the House bill, except: (1) allows a court to order forfeiture, (2) describes in more detail the scope of violations that could bring on a forfeiture order, and (3) adds the Treasury Department and Postal Service to the first category of agencies to which proceeds would be distributed. [Sec. 203(t)]

Conference agreement

The conference agreement adopts the Senate provision with technical amendments.

65. THE WIC PROGRAM: STUDY OF COST CONTAINMENT PRACTICES

Present law

No provision.

House bill

Requires the Secretary, acting through the Economic Research Service, to conduct a study of the effect of states' cost containment practices in selecting vendors and approved food items on: (1) program participation, (2) access to and availability of prescribed

foods, (3) voucher redemption rates and food selections by participants, (4) participants with special diets or specific food allergies, (5) participant use of and satisfaction with prescribed foods, (6) achievement of positive health outcomes, and (7) program costs. A report to Congress would be due not later than 3 years after enactment. [Sec. 202(q)]

Senate amendment

Same as the House bill, except for technical differences and: (1) requires the GAO to conduct the study, and (2) a report to Congress would be due no later than 2 years after enactment. [Sec. 203(u)]

Conference agreement

The conference agreement adopts the House provision with an amendment deleting the requirement that the Economic Research Service conduct the study and to require an interim report.

66. THE WIC PROGRAM: STUDY OF COST AND QUALITY OF SERVICES

Present law

No provision.

House bill

No provision.

Senate amendment

Requires the GAO to conduct a study that assesses: (1) the cost of delivering WIC services (including the cost of cost containment efforts), (2) the fixed and variable costs incurred by state and local government for delivering WIC services, (3) the quality of WIC services delivered, and (4) costs incurred for personnel, automation, central support, and other activities to deliver services, and whether the costs meet federal audit standards for allowable costs. A report to Congress would be due no later than 3 years after enactment. [Sec. 203(v)]

Conference agreement

The conference agreement adopts the Senate provision with a technical amendment.

67. NUTRITION EDUCATION AND TRAINING PROGRAM: AUTHORIZATION

Present law

Appropriations for the Nutrition Education and Training (NET) program are authorized at \$10 million a year through FY2002. [Sec. 19(i) of the CNA]

House bill

Authorizes appropriations at such sums as are necessary through FY2003. [Sec. 203]

Senate amendment

Same as the House bill, with technical differences. [Sec. 204]

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

68. EFFECTIVE DATE

House bill

Provisions to take effect on October 1, 1998 or the date of enactment, whichever is later. [Sec. 2]

Senate amendment

Provisions to take effect on October 1, 1998. [Sec. 401]

Conference agreement

The conference agreement adopts the Senate provision.

69. FARMER'S MARKET NUTRITION PROGRAM: MATCHING REQUIREMENT

Present law

Requires that states receiving grants provide state, local, or private funds for the program in an amount that is equal to at least 30% of the total cost of the program. States may count funds they use for other similar programs toward the matching requirement. [Section 17(m)(3) CNA]

House bill

Revises existing law to require that the matching fund requirement apply only to the administrative cost of the program instead of the entire costs [Sec. 202(n)(1)]

Senate amendment

Permit states to use "program income" to meet the 30% matching requirement. This change uses the term "program income" as defined in the Uniform Federal Assistance Regulations (Sec.3016.25) to permit donations by companies and vendor fines for violations to be used toward the matching requirement. [Sec. 203(r)(1)]

Conference agreement

The conference agreement adopts the Senate provision.

70. FARMER'S MARKET NUTRITION PROGRAM: CRITERIA FOR
ADDITIONAL FUNDS*Present law*

Establishes criteria for the Secretary to use when allocating funds to serve additional recipients in a state that received assistance in the previous fiscal year. Among the criteria to be considered is documentation that justifies the need for a participation increase. [Sec. 17(m)(6)(C) of the CNA]

House bill

Maintains current law.

Senate amendment

Eliminates service to additional recipients from the criteria for providing funds to states. Also replaces requirement for documentation to justify the need for an increase in participation with language requiring the Secretary to consider the state's need for an increase, use of increased funding consistent with serving nutritionally at-risk persons, and expanding program awareness. Also, adds a requirement that the Secretary consider whether a state that has been operating a program and wants to increase the value of benefits to individual recipients will increase the rate of coupon redemption. [Section 203 (r)(2)(A)]

Conference agreement

The conference agreement adopts the Senate provision.

71. FARMER'S MARKET NUTRITION PROGRAM: APPROVING AND RANKING
STATE PLANS

Present law

Establishes a ranking for the Secretary to use in approving state plans for operation of a program to include: favorable consideration of a state's prior experience, use of state or local funds for similar programs, and maintenance of effort by states or localities previously operating programs. Preference is to be given to plans that have the highest concentration of eligible persons, greatest access to farmers' markets, broad geographical areas, and other characteristics the Secretary determines will maximize the availability of benefits to eligible persons. [Section 17(m)(6)(F)]

House bill

Eliminates the ranking criteria and preferences for consideration that the Secretary must use, and makes conforming changes in paragraph designation. [Section 202(n)(2)]

Senate amendment

Same as the House bill. [Section 203(r)(2)(B)]

Conference agreement

The conference agreement follows the House bill and the Senate amendment with technical differences.

72. FARMER'S MARKET NUTRITION PROGRAM: FUNDING FOR CURRENT
AND NEW STATES

Present law

Requires that 75% of the funds appropriated for the program be made available to states participating in the program that wish to serve additional participants. Requires the Secretary to reallocate to states that have never participated in the program but have approved state plans any funds not needed to serve additional participants in states that have been operating programs. Requires 25% of funds to be allocated to states with approved plans that have never participated in the program. Requires the Secretary to reallocate funds not needed for these states to states already oper-

ating programs that want to serve additional recipients. [Section 17(m)(6)(g)]

House bill

Maintains current law.

Senate amendment

Maintains current law 75–25% split between states operating programs in a previous year and states operating new programs, but eliminates references to serving additional recipients. [Section 203(r)(2)(C)]

Conference agreement

The conference agreement adopts the Senate provision.

73. AUTHORIZATION

Present law

Authorizes such sums as may be necessary for each of fiscal years 1996 through 1998. [Section 17(m)(9)]

House bill

Authorizes such sums as may be necessary for each of fiscal years 1999 through 2003. [Section 202(n)(3)]

Senate amendment

Authorizes such sums as may be necessary for each of fiscal years 1996 through 2003. [Section 203(r)(3)]

Conference agreement

The conference agreement follows the House bill and the Senate amendment with technical differences.

74. COMMODITY SPECIFICATIONS

Present law

Requires the Secretary to apply the requirements for developing specifications for commodity acquisitions and donations to: the commodity supplemental food (CSFP), the food distribution program on Indian Reservations, the school lunch, commodity distribution, child care and adult care food, and school breakfast programs, the elderly commodity program, and the emergency food assistance program. [Sec. 3(a)(2)]

House bill

No provision.

Senate amendment

Removes requirement that the Secretary apply requirements for the development of commodity specifications to the child and adult care food program, school breakfast program, elderly commodity program, and emergency food assistance program. [Sec. 301(a)]

Conference agreement

The Conference agreement adopts the House position.

75. INFORMATION FROM RECIPIENT AGENCIES

Present law

Requires the Secretary to establish procedures for ensuring that information is received from recipient agencies at least annually regarding the types and forms of commodities that are most useful to them and their participants. [Sec. 3(f)(2)]

House bill

No provision.

Senate amendment

Replaces current law annual requirement with a requirement that the Secretary collect such information from these recipient agencies at least once every two years. Also adds a provision permitting the Secretary to require this type of information from recipient agencies participating in other domestic food assistance programs, and to provide these agencies with a means for voluntarily submitting customer acceptability information. [Sec. 301(b)]

Conference agreement

The Conference agreement adopts the Senate provision with technical changes.

76. AUTHORITY TO TRANSFER COMMODITIES

Present law

No current provision.

House bill

No provision.

Senate amendment

Permits the Secretary of Agriculture to transfer commodities purchased for one domestic food program to another if necessary to ensure suitable use for human consumption; permits the Secretary to provide reimbursement from the account of the receiving program to the donating program for the value of commodities transferred; and requires that any reimbursement be credited to the accounts that incurred the costs when the transferred commodities were originally purchased, and be available for the purchase of replacement commodities. [Sec. 302(a)]

Conference agreement

The conference agreement adopts the Senate provision.

77. AUTHORITY TO RESOLVE CLAIMS

Present law

No current provisions.

House bill

No provision.

Senate amendment

Gives the Secretary authority to waive or determine the amount of, and settle or adjust all or parts of claims arising under domestic food assistance programs. [Sec. 302(a)]

Conference agreement

The conference agreement adopts the Senate provision.

78. REMOVAL OF COMMODITIES POSING A HEALTH OR SAFETY RISK

Present law

No current provision.

House bill

No provision.

Senate amendment

Permits the Secretary to use uncommitted Section 32 funds to reimburse states for state and local costs of removing commodities distributed to domestic food programs that are determined to pose a health or safety hazard. Allows such funds to be used to cover the costs of storage, transport, processing and destroying hazardous commodities, subject to Secretarial approval. Does not permit the use of section 32 funds for this purpose to restrict the Secretary from recovering funds or services from a supplier or other entity regarding the hazardous commodities, and requires that funds so recovered be credited to the section 32 account and remain available until expended. [Section 302 (a)]

Conference agreement

The conference agreement adopts the Senate provision with a clarifying amendment, and an amendment limiting the authority to two years.

79. AUTHORITY TO ACCEPT DONATED COMMODITIES

Present law

No current provision.

House bill

No provision.

Senate amendment

Permits the Secretary to accept commodities donated by other Federal agencies and to donate such commodities to states for distribution through any domestic food administration program administered by the Secretary. [Section 302 (a)]

Conference agreement

The conference agreement adopts the Senate provision.

80. EFFECT OF PRIOR AMENDMENTS

Present law

Refers to the amendments made by the Commodity Distribution Reform and WIC Amendments of 1987 to the Child Nutrition Act of 1966.

House bill

No provision.

Senate amendment

Makes clear that striking the amendments made by the Commodity Distribution Reform and WIC Amendments Act of 1987 to the Child Nutrition Act (see above) do not affect the amendments as in effect on September 30, 1998. [Sec. 302(b)]

Conference agreement

The conference agreement adopts the Senate provision with technical differences.

From the Committee on Education and the Workforce, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

BILL GOODLING,
FRANK RIGGS,
MIKE CASTLE,
W.L. CLAY,
M.G. MARTINEZ,

From the Committee on Agriculture, for consideration of secs. 2, 101, 104(b), 106, 202(c) and 202(o) of the House bill, and secs. 101, 111, 114, 203(c), 203(r), and titles III and IV of the Senate amendment, and modifications committed to conference:

BOB SMITH,
BOB GOODLATTE,
CHARLIE STENHOLM,

Managers on the Part of the House.

RICHARD G. LUGAR,
THAD COCHRAN,
MITCH McCONNELL,
TOM HARKIN,
PATRICK J. LEAHY,

Managers on the Part of the Senate.